



**PRESENT:**

Mr. Daniel A. Gecker, Chairman  
Mr. Russell J. Gulley, Vice Chairman  
Mr. Jack R. Wilson, III  
Mr. Sherman W. Litton  
Mr. F. Wayne Bass  
Mr. Kirkland A. Turner, Secretary to the Commission,  
Planning Director

**ALSO PRESENT:**

Mr. M. D. "Pete" Stith, Jr., Deputy County Administrator  
for Community Development  
Mr. Michael E. Tompkins, Assistant Director,  
Development Review Section, Planning Department  
Ms. Beverly F. Rogers, Assistant Director, Zoning and  
Special Projects Section, Planning Department  
Mr. Robert V. Clay, Planning and Special Projects Manager,  
Zoning and Special Projects Section, Planning Department  
Ms. Jane Peterson, Planning and Special Projects Manager,  
Zoning and Special Projects Section, Planning Department  
Ms. Darla W. Orr, Planning and Special Projects Manager,  
Zoning and Special Projects Section, Planning Department  
Ms. Teresa C. Davis, Planning and Special Projects Coordinator,  
Zoning and Special Projects Section, Planning Department  
Mr. Carl D. Schlaudt, Planning Administrator,  
Development Review Section, Planning Department  
Mr. Gregory E. Allen, Planning Administrator,  
Development Review Section, Planning Department  
Mr. Jeffrey H. Lamson, Senior Planner, Development  
Review Section, Planning Department  
Mr. Alan G. Coker, Senior Planner, Development  
Review Section, Planning Department  
Mr. Benjamin T. Humphrey, Planner, Development  
Review Section, Planning Department

Mr. Joseph E. Feest, Planning Administrator, Development  
Review Section, Planning Department

Ms. Amy Somervell, Senior Planner, Development  
Review Section, Planning Department

Mr. James K. Bowling, Principal Planner, Advance Planning  
and Research Section, Planning Department

Mr. Steven F. Haasch, Principal Planner, Advance Planning and  
Research Section, Planning Department

Ms. Linda N. Lewis, Administrative Assistant, Administration  
Section, Planning Department

Ms. Deanna D. Atkins, Administrative Secretary,  
Administrative Section, Planning Department

Mr. Steven L. Micas, County Attorney,  
County Attorney's Office

Mr. David W. Robinson, Assistant County Attorney,  
County Attorney's Office

Ms. Tara McGee, Assistant County Attorney,  
County Attorney's Office

Mr. Allan M. Carmody, Director,  
Budget and Management Department

Mr. R. John McCracken, Director,  
Transportation Department

Mr. Louis W. Corde, Senior Engineer,  
Transportation Department

Mr. Richard M. McElfish, Director,  
Environmental Engineering Department

Mr. Douglas Pritchard, Jr., Engineering Supervisor,  
Environmental Engineering Department

Mr. Randolph Phelps, Senior Engineer,  
Utilities Department

Mr. Michael S. Golden, Director,  
Parks and Recreation Department

Lieutenant Frank X. Nause III,  
Fire Marshal #4, Fire Department

Dr. Mike Etienne, Communications Specialist,  
Planning Department, School Administration

### **ASSEMBLY AND WORK SESSION**

Messrs. Gecker, Gulley, Wilson, Litton, Bass and staff assembled at 12:00 p. m. in the Multipurpose Meeting Room (1<sup>st</sup> Floor) of the Chesterfield County Community Development Building, 9800 Government Center Parkway, Chesterfield, VA, for lunch and a work session to discuss the following:

- I. Requests to **Postpone Action, Emergency Additions, Changes** in the **Order of Presentation** and **Dinner Location Selection**.
- II. Review **Upcoming Agendas**. (Any rezonings or conditional uses scheduled for future meetings.)

- III. Review **Day's Agenda**. (Any items listed for the 3:00 p.m. and 7:00 p.m. Sessions.)
- IV. **Work Program – Review and Update.** 📄
- V. **Upper Swift Creek Draft Ordinances to Decrease Impervious and Increase Pervious Areas.** 📄
- VI. **Recess.**

I. **REQUESTS TO POSTPONE ACTION, EMERGENCY ADDITIONS OR CHANGES IN THE ORDER OF PRESENTATION.**

On motion of Mr. Wilson, seconded by Mr. Bass, the Commission amended the agenda to add a new Item VI., Schedule Public Hearing Date and Meeting Time for Consideration of Preservation Committee Landmark Designation Requests and reordered the agenda accordingly.

AYES: Messrs. Gecker, Gulley, Wilson, Litton and Bass.

◆ **DINNER LOCATION SELECTION.**

On motion of Mr. Wilson, seconded by Mr. Bass, the Commission resolved to meet for dinner at Riptides Seafood Restaurant at 5:00 p. m.

AYES: Messrs. Gecker, Gulley, Wilson, Litton and Bass.

II. **REVIEW UPCOMING AGENDAS.**

Ms. Rogers apprised the Commission of the caseload agenda for the upcoming months of November and December 2007 and January 2008.

III. **REVIEW DAY'S AGENDA.**

Messrs. Tompkins, Allen and Feest presented an overview of, and staff's recommendations for, requests to be considered at the 3:00 p. m. Public Meeting.

Ms. Rogers presented an overview of, and staff's recommendations for, requests to be considered at the 7:00p. m. Public Meeting and Hearing.

Mr. Tompkins presented an overview of, and staff's recommendations for, a proposed Code/Plan Amendment relating to the establishment of a Traditional Neighborhood Development Mixed Use Zoning District to be considered at the 7:00p. m. Public Meeting and Hearing.

Mr. Turner presented an overview of, and staff's recommendations for, a proposed Code/Plan Amendment relating to impact fees to be considered at the 7:00p. m. Public Meeting and Hearing.

IV. **WORK PROGRAM.**

Mr. Turner updated the Commission as to the status of the Upper Swift Creek Plan and related Ordinances adopted by the Board of Supervisors at their October 10, 2007, meeting and recapped actions taken at that time.

There being no additions, deletions or revisions to the Commission's Work Program, the Commission reviewed and accepted the November 2007 Work Program.

**V. UPPER SWIFT CREEK DRAFT ORDINANCES TO DECREASE IMPERVIOUS AND INCREASE PERVIOUS AREAS.**

Mr. McElfish presented a synopsis of fifteen (15) proposed Upper Swift Creek draft Ordinances to decrease impervious and increase pervious areas and asked the Commission to set a public hearing date to consider the proposals. He further noted the draft amendments were not all inclusive and periodically additional amendments may come forward.

On motion of Mr. Wilson, seconded by Mr. Gecker, the Commission set the date of, and requested staff take the necessary steps to advertise, January 15, 2008, at 7:00 p. m., in the Public Meeting Room of the Chesterfield Administration Building, for a public hearing to consider Upper Swift Creek draft Ordinances to decrease impervious and increase pervious areas.

AYES: Messrs. Gecker, Gulley, Wilson, Litton and Bass.

**VI. SCHEDULE PUBLIC HEARING DATE AND MEETING TIME FOR CONSIDERATION OF PRESERVATION COMMITTEE LANDMARK DESIGNATION REQUESTS.**

On motion of Mr. Gulley, seconded by Mr. Bass, the Commission set the date of, and requested staff take the necessary steps to advertise, November 20, 2007, at 3:00 p. m., in the Multipurpose Room (1<sup>st</sup> Floor) of the Chesterfield County Community Development Building, 9800 Government Center Parkway, Chesterfield, Virginia, for a joint public hearing of the Planning Commission and Historic Preservation Committee to consider historic landmark designation requests.

AYES: Messrs. Gulley, Litton and Bass.

NAYS: Messrs. Gecker and Wilson.

**VII. RECESS.**

There being no further business to discuss, the Commission recessed at 1:57 p. m., agreeing to reconvene in the Multipurpose Room at 3:00 p. m. for the public meeting.

**3:00 P. M. PUBLIC MEETING**

Mr. Gecker, Chairman, called the meeting to order at 3:00 p. m. in the Multipurpose Meeting Room of the Chesterfield County Community Development Building and welcomed those present.

**I REQUESTS TO POSTPONE ACTION, EMERGENCY ADDITIONS OR CHANGES IN THE ORDER OF PRESENTATION.**

There were no requests to postpone action, emergency additions or changes in the order of presentation.

## II. REVIEW MEETING PROCEDURES.

Mr. Turner reviewed the meeting procedures for consideration of schematic plans, architecture plans, development standards waivers and tentative subdivision approvals.

## III. APPROVAL OF PLANNING COMMISSION MINUTES.

Mr. Turner stated that the first order of business would be the consideration of the September 18, 2007, Planning Commission minutes.

On motion of Mr. Wilson, seconded by Mr. Gulley, the Commission resolved to approve the September 18, 2007, Planning Commission minutes, as written.

AYES: Messrs. Gecker, Gulley, Wilson, Litton and Bass.

## IV. CONSIDERATION OF THE FOLLOWING REQUESTS:

### ◆ CASES WHERE THE APPLICANT ACCEPTS STAFF'S RECOMMENDATION AND THERE WAS NO OPPOSITION PRESENT.

**07PW0406:** In Midlothian Magisterial District, **CHESTERFIELD COUNTY PARKS AND RECREATION** requested Planning Commission approval of a waiver of development standards to the Zoning Ordinance requirement that illumination at the property line adjacent to Agricultural (A), Residential Townhouse (R-TH) and Residential Multi-Family (R-MF) Districts be limited to five-tenths (0.5) foot candle. This project is commonly known as **MIDLOTHIAN MIDDLE SCHOOL RECREATION SITE IMPROVEMENTS**. This request lies in Agricultural (A), Residential (R-7) and Community Business (C-3) Districts on a 28 acre parcel fronting approximately 775 feet on the south line of Midlothian Turnpike. Tax ID 729-707-6714.

Mr. Mike Golden, the applicant's representative, accepted staff's recommendation.

No one came forward to speak in favor of, or in opposition to, the request.

On motion of Mr. Gecker, seconded by Mr. Wilson, the Commission found Case 07PW0406, Chesterfield County Parks and Recreation (Midlothian Middle School-Recreation Site Improvement), substantially complied with the five (5) factors of Section 19-19 of the County Code and resolved to recommend approval of a development standards waiver to Section 19-508.3 of the Zoning Ordinance requiring that illumination at the property line adjacent to Agricultural (A), Residential Townhouse (R-TH) and Residential Multi-Family (R-MF) Districts be limited to five-tenths (0.5) foot candle.

AYES: Messrs. Gecker, Gulley, Wilson, Litton and Bass.

**08PR0170:** In Midlothian Magisterial District, **VILLAGE MILL LAND INVESTORS LLC** requested Planning Commission approval for architecture, as required by zoning Case 83S141. This development is commonly known as **MIDLOTHIAN VILLAGE SQUARE**. This request lies in a Community Business (C-3) District on a 4.301 acre parcel located along the south line of Midlothian Turnpike and the north line of

Village Mill Drive east of Charter Colony Parkway and better known as 13800 Village Place Drive. Tax ID 727-708-4907.

Mr. Reade Goode, the applicant's representative, accepted staff's recommendation.

No one came forward to speak in favor of, or in opposition to, the request.

On motion of Mr. Gecker, seconded by Mr. Wilson, the Commission resolved that approval of architecture, as required by Condition 3 of zoning Case 83S141, for Case 08PR0170, Village Mill Land Investors LLC (Midlothian Village Square), shall be and it thereby was granted.

AYES: Messrs. Gecker, Gulley, Wilson, Litton and Bass.

**08PS0133:** In Midlothian Magisterial District, **SMITH PACKETT MED-COM, INC.** requested Planning Commission approval for a revised schematic plan for a mixed use development. This project is commonly known as **THE CROSSINGS AT BON AIR**. This request lies in Residential (R-7) and Community Business (C-3) Districts on a 17.6 acre parcel fronting approximately 600 feet on the north line of Midlothian Turnpike, also fronting approximately 400 feet on North Pinetta Drive. Tax IDs 753-706-9512; 754-705-5275; and 754-706-1128 and 3718.

Mr. Andy Scherzer, the applicant's representative, accepted staff's recommendation, including the Addendum.

No one came forward to speak in favor of, or in opposition to, the request.

On motion of Mr. Gecker, seconded by Mr. Bass, the Commission resolved that approval for a revised schematic plan for a mixed use development for Case 08PS0133, Smith Packett Med-Com, Inc. (The Crossings at Bon Air), shall be and it thereby was granted, subject to the following condition:

CONDITION

Revise the layout at time of site plan review so that the Condo I and Condo II buildings are turned and vehicular access is revised approximately as shown in the attached "Revised Plan by Staff" and revised to meet Residential Multi-family (R-MF) setbacks.

AYES: Messrs. Gecker, Gulley, Wilson, Litton and Bass.

**08PW0153:** In Bermuda Magisterial District, **COLONIAL HEIGHTS BAPTIST CHURCH** requested modifications to development standards of the Zoning Ordinance that require parking areas to be paved, have perimeter curb and gutter and have interior landscaping for two (2) areas of interim overflow gravel parking. This project is commonly known as **COLONIAL HEIGHTS BAPTIST CHURCH**. This request lies in a Regional Business (C-4) District on a 25 acre parcel fronting approximately 1,300 feet on the north line of Arrowfield Road. Tax ID 800-628-7899.

Mr. Roger Hamrick, the applicant's representative, accepted staff's recommendation.

No one came forward to speak in favor of, or in opposition to, the request.

On motion of Mr. Wilson, seconded by Mr. Litton, the Commission found Case 08PW0153, Colonial Heights Baptist Church (Colonial Heights Baptist Church), substantially complied with the five (5) factors of Section 19-19 of the County Code and resolved to recommend approval of a development standards waiver to Sections 19-514(d) and 19-519 of the Zoning Ordinance requiring parking areas to be paved, have perimeter curb and gutter and have interior landscaping for two (2) areas of interim overflow gravel parking, subject to the following conditions:

#### CONDITIONS

1. Both gravel parking areas shall be removed prior to issuance of the certificate of occupancy for the next building phase, either the expansion of the existing building or construction of the building to the north. (P)
2. The currently approved site plan shall be revised and shall be submitted for administrative review and approval which accomplish the following staff review comments. (P)

#### STAFF REVIEW COMMENTS:

1. Runoff from Area B (gravel lot) shall be collected and conveyed in a non-erodible manner to an adequate outfall. (EE)
2. Provide revised drainage area calculations and make any required revisions to the stormwater drainage system. (EE)
3. Provide safety measures adjacent to the BMP. (P&EE)
4. Provide culverts and installation methods approved by Environmental Engineering Department and Fire and EMS. (EE&F)
5. Provide a detail of the gravel installation providing for a minimum of six (6) inches of stone for the gravel parking areas. (P)
6. Revise the plans to provide parking spaces that are at least 200 square feet and at least ten (10) feet wide in the gravel areas. (P)
7. Provide a method of delineating the parking bays and angle of parking in these gravel parking areas. (P)
8. Provide a method of delineating the perimeter of the parking and the entrance drives for Area B. (P)

AYES: Messrs. Gecker, Gulley, Wilson, Litton and Bass.

**08TW0152:** In Bermuda Magisterial District, **JAMES TRUMP** requested a development standards waiver to Section 19-510(a)(1) of the Zoning Ordinance to park an RV trailer outside of the required rear yard. This development is commonly known as **MILLSIDE SUBDIVISION**. This request lies in a Mobile Home (MH-2)

District on a .20 acre parcel fronting approximately 65 feet on the east line of S. Swift Bluff Court. Tax ID 802-629-1660.

Mr. James Trump, the applicant, accepted staff's recommendation.

Mr. Gecker opened the discussion for public comment.

Mr. John Gray; Ms. Linda Craft; and Ms. Joan Whittlock, adjacent property owners, supported the applicant's request.

There being no one else to speak, Mr. Gecker closed the public comment.

Mr. Wilson noted the submittal of a petition by three (3) adjacent property owners in opposition to the request, stating he felt deferral to the November 20, 2007, meeting would be appropriate, on his motion, to address the issues raised.

The following motion was made at Mr. Wilson's request.

On motion of Mr. Wilson, seconded by Mr. Litton, the Commission, on their own motion, resolved to defer Case 08TW0152, James Trump (Millside Subdivision), to the November 20, 2007, Planning Commission public meeting.

AYES: Messrs. Gecker, Gulley, Wilson, Litton and Bass.

◆ **CASES WHERE THE APPLICANT DID NOT ACCEPT THE RECOMMENDATION AND/OR THERE WAS PUBLIC OPPOSITION OR CONCERN.**

**08PS0156:** In Clover Hill Magisterial District, **JEFFREY STOKER** requested an amendment to approved schematic plans and elevations of Case 88PS1069. This project/development is commonly known as **HASTY LANE OFFICE WAREHOUSE**. This request lies in a Light Industrial (I-1) District on a 0.95 acre parcel fronting approximately 200 feet on the north line of Hasty Lane, also fronting approximately 240 feet east of the intersection of Hasty Lane and Speeks Drive. Tax IDs 745-685-4521 and Part of 3715.

Mr. Lamson presented an overview of the request and staff's recommendation.

Mr. Jeffrey Stoker, the applicant, accepted staff's recommendation.

No one came forward to speak in favor of, or in opposition to, the request.

In response to Mr. Gulley's concerns, Mr. Stoker agreed to a condition requiring that split faced block be installed on the rear of the building from the ground to the roof, except for the roll-up doors

On motion of Mr. Gulley, seconded by Mr. Bass, the Commission resolved that approval of an amendment to approved schematic plans and elevations of Case 88PS1069 for Case 08PS0156, Jeffrey Stoker (Hasty Lane Office Warehouse), shall be and it thereby was granted, subject to the following conditions:



## CONDITIONS

1. Prior to site plan approval, elevations shall be revised and submitted to incorporate the standing seam canopy on all sides of the building. (P)
2. At time of site plan review, changes to the elevations may be approved to accommodate mechanical equipment screening, including a taller mansard type standing seam roof to screen roof top equipment. (P)
3. Split faced block shall be installed on the rear of the building from the ground to the roof, except for the roll-up doors. (CPC)

(NOTE: This schematic plan amendment supersedes all requirements of schematic Case 88PS1069, also known as Hasty Lane, Phase II.)

AYES: Messrs. Gecker, Gulley, Wilson, Litton and Bass.

**08TS0105:** In Midlothian Magisterial District, **TONY AND KATHRYN LUCAS AND OLD GUN ROAD PROPERTIES** requested a tentative subdivision consisting of twenty (20) single family residential lots. This project is commonly known as **THE PRESERVE AT OLD GUN**. This request lies in a Residential (R-40) District on a 48.02 acre parcel fronting approximately 625 feet on the west line of Old Gun Road. Tax IDs 735-721-2025, 736-721-6540 and 736-722-5574.

Mr. Feest presented an overview of the request and staff's recommendation for denial, noting the application did not meet the requirements of connectivity through the provisions of stub roads to adjacent properties and the lack of public road connections failed to address health, safety and welfare concerns. He stated, if the Planning Commission should elect to approve the case, staff recommended approval subject to the conditions and review notes, outlined in the "Request Analysis."

Mr. Todd Chalmers, the applicant's representative, accepted the conditions of approval outlined in the "Request Analysis" but did not accept staff's recommendation for denial of the request for relief from the street connectivity requirements, noting the property to the north had been previously subdivided in 1981 and 2004. He noted the land was already developed with dwellings on it, therefore, connectivity requirements did not apply; his client was not willing to adjust the right of way along the limits of the Greer Tract in order to protect technical controls with respect to architecture of the project and to allow a contractual agreement with the owners of the Greer property, or future developers, should access be requested.

Mr. Gecker opened the discussion for public comment.

Ms. Denise Brown, an adjacent property owner, asked that the request be deferred to allow her to ascertain if a portion of the Lucas Tract infringed on her property.

Ms. Nancy Frantel, a County resident, distributed copies of information from the Virginia Department of Mines, Minerals and Energy regarding mining activity on the property and asked that the request be denied.

There being no one else to speak, Mr. Gecker closed the public comment.

In rebuttal, Mr. Chalmers indicated willingness to work with Ms. Brown in an effort to resolve concerns regarding a boundary dispute.

Mr. Gecker stated he wished to maintain the integrity, character and history of the property.

Mr. Bass expressed concerns that the surrounding properties had been heavily mined; questioned if the conditions outlined in the "Request Analysis" required geo-technical expertise relative to area mining activities and a commitment to establish fill in/reclamation procedures and/or setbacks between the perimeter of any shaft reclaimed to protect the health, safety and welfare of people as well as the integrity of structures in which people would be living; and stated he was not convinced the property was suitable for development.

Mr. Gecker stated the conditions outlined in the "Request Analysis" required professional remediation of any mining in the area; that approval of the subdivision did not necessarily give future property owners the immediate right to construct homes; and referenced the legal issues concerning the possible boundary line dispute, noting approval of the request would not negate the rightful ownership of the property in question.

On motion of Mr. Gecker, seconded by Mr. Wilson, the Commission resolved that approval of a tentative subdivision consisting of twenty (20) single family residential lots for Case 08TS0105, Old Gun Road Properties and Tony and Kathryn Lucas (The Preserve at Old Gun), shall be and it thereby was granted, subject to the following conditions and review notes:

#### CONDITIONS

1. With the construction plan approval process and prior to recordation, all areas of former mining activity including that which straddles the property line with Tarrington Holdings, shall be eliminated in a suitable fashion as documented by a licensed, professional expert. At a minimum, reclamation of former mining activity shall be consistent with DMME reclamation guidelines as confirmed by written documentation by DMME. In addition to the documentation of the location and reclamation of former mining activities, the geo-technical expert shall designate those lots which in his opinion should have borings taken in order to assure that a home is not built over shafts or any other previous mining activity. (EE)
2. The geo-technical experts report should include the following: (EE)
  - a. The location and analysis to include but not be limited to type (e.g., mine entrance shaft, air vents, unsuccessful exploratory pits, etc.), size, and depth of all found mining pits or tailing heaps on the project.
  - b. A statement shall be included that the only previous mining activity found on the site are those shown on the tentative or subdivision plant. This conclusion shall be technology based in addition to visual as directed by the Environmental Engineering Department.

- c. The report shall clearly establish fill-in/reclamation procedures, setbacks between the perimeter of any shaft reclaimed or otherwise and any other safety measures intended to protect the health, safety and welfare of people as well as the integrity of structures in which people will be living.
  - d. The report shall indicate that all former mining activity shall be filled in/reclaimed under the direction of the geo-technical consultant.
  - e. All reclamation shall be observed by a qualified geo-technical expert acceptable to the Environmental Engineering Department and shall be certified as to compliance with the recommendations established in the accepted report. Prior to the plat recordation, a copy of the certification shall be submitted to the Environmental Engineering Department.
  - f. The accepted report shall address the impact of any horizontal shafts as to any effect on construction and any future health, safety and welfare issues.
  - g. On those lots where the geo-technical consultant believes soil borings are required. Geo-technical soil borings shall be performed for the purposes of establishing an acceptable building envelope in sufficient number and array and to a sufficient depth to confirm that only undisturbed natural soil profiles are within the footprint of the proposed building and that the building site is not impacted by any horizontal shafts.
  - h. Allowable building envelopes whose size and location is established based on the recommendations and boring logs of a qualified geo-technical expert acceptable to the Environmental Engineering Department shall be placed on the construction plan and subdivision plat for those lots where no such information is provided, the report from the geo-technical expert shall confirm that such information is not necessary for those lots.
3. Any timbering that is to occur as the first phase of infrastructure construction will be incorporated into the project's erosion-and-sediment control plan narrative and will not commence until the issuance of a land disturbance permit for subdivision construction and proper installation of erosion control measures. (EE)
  4. The USACOE jurisdictional wetlands shall be shown on the construction plans and subdivision plat. (EE)
  5. Approval of the road and drainage plans by Plantation Pipeline in relation to its easement and facilities therein is a prerequisite to construction plan approval by the Environmental Engineering Department. A quit claim to VDOT or a satisfactory commitment thereof by Plantation Pipeline for the location where Salles Crossing Place right-of-way will cross the Plantation Pipeline easement shall be a prerequisite to subdivision plat recordation. (EE)
  6. Prior to construction plan approval, the Environmental Engineering Department must have received documentation that the sub-divider or his representative has notified certain

property owners determined by the Department of the proposed adjacent construction. (EE)

7. Prior to the issuance of the land disturbance permit by the Chesterfield County Environmental Engineering Department, a land disturbance permit or its equivalent must have been issued by DMME with respect to the areas under its jurisdiction. (EE)
8. All reclamation sites shall be shown on the construction plans and subdivision plats. (EE)
9. Prior to the release of building permits in the subdivision, a certification from a licensed geotechnical engineer shall be submitted to the Environmental Engineering and Building Inspection Departments indicating that all necessary reclamation, boring, and/or other actions have been satisfactorily completed and that the lot is suitable for building construction. (EE)
10. The culverts under Capwell Place and in lot 16 shall be designed to pass the 100 year storm without topping the road or driveway. (EE)
11. Thirty five feet of right of way, measured from the centerline of Old Gun Road shall be dedicated to and for the benefit of Chesterfield County, free and unrestricted, in conjunction with recordation of the first section of this tentative. (T)
12. The ditch line on Old Gun Road shall be relocated to provide an adequate shoulder in conjunction with road construction of the first section of this tentative. (T)
13. There shall be no road connection between Capwell Drive and Grayscott Lane in the Tarrington Subdivision and no driveway connection from any lots in the Tarrington Subdivision to Capwell Drive. (T)

#### REVIEW NOTES:

- A. It will be the responsibility of the sub divider to make certain, by whatever means necessary, (i.e., on-site water line looping or off-site water line extensions, etc.) that the demands generated by the proposed project do not adversely affect any portion of the pressure zone the project is located within and that the addition of this project will not cause any area within the pressure zone to fail to comply with the Chesterfield County Fire Department's required fire flow of 1000 gpm at 20 psi residual. (U)
- B. This office may require redesign or modifications to the proposed sewer layout, as shown on the tentative plan, once the field work and final design has been completed by the engineer and shown on initial construction plan submittal for review and approval. (U)
- C. Compliance with 17-76 of the Subdivision Ordinance in the Chesterfield County Code shall be maintained at all times. (F)

- D. Hydrant requirements and locations shown on the tentative plan may not be acceptable. Hydrant(s) required and their location will be evaluated at the time of construction plan review. (F)
- E. When submitting the construction plans, provide an additional copy to go to the Fire Department for review. (F)
- F. Standard conditions. (P)
- G. A homeowner's association is required in accordance with Section 19-559. (P)
- H. All improvements to existing transportation facilities required as a result of the impact of this project shall be the responsibility of the developer. Approval of detailed construction plans is a prerequisite to issuance of a land use permit allowing access onto and construction within state maintained rights of way. It should be noted that plan approval at this time does not preclude the imposition of additional requirements at construction plan review. (VDOT)
- I. Any requirements of the subdivision ordinance adopted by Chesterfield County that are equal to or greater than 2005 SSR provisions including listing of documents incorporated in 24 VAC 30-91-160 are VDOT requirements in Chesterfield County and govern unless Chesterfield County concurs with an exception to their higher standards. (VDOT)
- J. All right of way widths as shown are preliminary and should be so noted. Actual widths shall be determined by roadway design as stipulated in Appendix B of the 2005 Subdivision Street Requirements (SSR). (VDOT)
- K. The design of any/all proposed landscape embellishments (ie, landscaping, hardscaping, signage, lighting, irrigation, fencing, etc.) To be installed within state maintained rights of way must be submitted to VDOT for review as separate submittal under Permit Process. VDOT approval of said plan shall be granted prior to installation. Failure to comply with these requirements may result in the removal of said embellishments prior to state acceptance. (VDOT)
- L. All roads to be designed and constructed per current VDOT standards and specifications. (VDOT)
- M. The construction of transportation improvements on roadways which are defined as arterials or collectors in Chesterfield County's "Thoroughfare Plan", and all internal roads require the implementation of a comprehensive inspection program to insure compliance with VDOT standards and specifications. Inspection services shall be provided utilizing one of the following options:
  - a. The applicant shall retain the services of a licensed geotechnical engineer to perform the required inspection and testing, or,

- b. The applicant shall request that VDOT provide inspection services through the establishment of an accounts receivable with the contractor responsible for providing all required material testing.

Either option a or b may be used for each category of road at the preference of the developer. (VDOT)

- N. All USACOE jurisdictional wetlands within proposed right-of-way to be state maintained shall be considered impacted. (VDOT)
- O. The disposition of any/all mine shafts within proposed right-of-way to be state maintained shall be addressed in accordance with all local, state and federal regulations. Documented evidence that compliance with these regulations has been achieved must be provided to VDOT prior to acceptance of this street into the Secondary System of State Highways. (VDOT)
- P. Specific street design issues shall be addressed at the time of detailed geometric and hydraulic review of construction plans for this project. It should be noted that minimum intersection sight distance requirements are addressed in the current edition of the VDOT Minimum Standards of Entrances to State Highways. (VDOT)
- Q. The design of private entrance access along curb and gutter streets shall be in accordance with Appendix B of the 2005 SSR. (VDOT)
- R. Only one (1) curb and gutter design may be used along the length of a street, as per 24VAC 30-91-110. (VDOT)
- S. Adequacy of the ultimate outfall from proposed development shall be successfully demonstrated in the construction plans for the proposed subdivision, and all associated work shall be developer's responsibility. (VDOT)
- T. Sanitary sewer manholes as shown are preliminary and should be so noted. Actual locations of utility manholes shall be shown on construction plans and in accordance with Appendix B of the 2005 Subdivision Street Requirements (SSR). (VDOT)

AYES: Messrs. Gecker, Gulley, Wilson and Litton.

NAYS: Mr. Bass.

When reminded by Ms. McGee to waive connectivity by separate motion, Mr. Gecker asserted there was no waiver to connectivity required under the Policy.

## **V. RECESS.**

There being no further business to come before the Commission, the Commission recessed the Afternoon Session at approximately 3:43 p. m., agreeing to meet at Riptides Seafood Restaurant at 5:00 p. m. for dinner.

During dinner, there was discussion pertaining to various rezoning and Conditional Use request sites.

### **6:00 P. M. PUBLIC MEETING AND HEARING**

Mr. Gecker, Chairman, called the meeting to order at 6:00 p. m. in the Public Meeting Room of the Chesterfield County Administration Building in the Government Center Complex.

#### **I. INVOCATION.**

Mr. Wilson presented the invocation.

#### **II. PLEDGE OF ALLEGIANCE TO THE FLAG OF THE UNITED STATES OF AMERICA.**

Mr. Gulley led the Pledge of Allegiance to the Flag.

#### **III. REVIEW AGENDAS FOR UPCOMING MONTHS.**

There was no review of the agendas for upcoming months.

#### **IV. REQUESTS TO POSTPONE ACTION, EMERGENCY ADDITIONS OR CHANGES IN THE ORDER OF PRESENTATION.**

There were no requests to postpone action, emergency additions or changes in the order of presentation.

#### **V. REVIEW MEETING PROCEDURES.**

Mr. Turner reviewed the meeting procedures for rezonings, conditional uses and code amendments.

#### **VI. CITIZEN COMMENT ON UNSCHEDULED MATTERS INVOLVING THE SERVICES, POLICIES AND AFFAIRS OF THE COUNTY GOVERNMENT REGARDING PLANNING OR LAND USE.**

Mr. David Webb, a Matoaca District resident, expressed appreciation to and commended the Commission and staff for their efforts relative to the *Upper Swift Creek Plan*.

#### **VII. CONSIDERATION OF THE FOLLOWING REQUESTS:**

##### **♦ DEFERRAL REQUESTS BY APPLICANTS.**

**05SN0310:** In Dale Magisterial District, **HILL DEVELOPMENT ASSOCIATES, LTD** requested deferral to December 18, 2007, for consideration of rezoning and amendment of zoning district map from Agricultural (A) to Residential (R-12) with Conditional Use Planned Development to allow exceptions to Ordinance requirements. Residential use of up to 3.63 units per acre is permitted in a Residential (R-12) District. The Comprehensive Plan suggests the property is appropriate for residential use of 1.0-2.5 dwelling units per acre. This request lies on 73.8 acres fronting in two (2) places for approximately 300 feet on the south line of Kingsland Road approximately 200 feet west of Pine Glade Lane, also fronting approximately 270 feet on

the north line of Route 288 approximately 2,700 feet east of Salem Church Road. Tax IDs 780-670-6772 and 780-671-1301, 2751 and 8852.

Mr. Brennen Keene, the applicant's representative, requested deferral of Case 05SN0310 to the December 18, 2007, Planning Commission public hearing.

In response to questions from Mr. Litton, Mr. Keene indicated he felt the access and road improvement issues could be resolved within the deferral period.

There was no opposition to the deferral.

The following motion was made at the applicant's request.

On motion of Mr. Litton, seconded by Mr. Bass, the Commission resolved to defer Case 05SN0310 to the December 18, 2007, Planning Commission public hearing.

AYES: Messrs. Gecker, Gulley, Wilson, Litton and Bass.

**07SN0134:** (Amended) In Bermuda Magisterial District, **SECOND FORTUNE, LLC** requested deferral to the regularly scheduled March 2008 meeting for consideration of rezoning and amendment of zoning district map from Agricultural (A) to Community Business (C-3) and Corporate Office (O-2) and from Community Business (C-3) to Corporate Office (O-2), plus proffered conditions on an adjacent parcel currently zoned Community Business (C-3). The density of such amendment will be controlled by zoning conditions or Ordinance standards. The Comprehensive Plan suggests the property is appropriate for neighborhood mixed use. This request lies on 4.1 acres fronting approximately 440 feet on the southeast line of Meadowville Road approximately 530 feet north of West Hundred Road; also fronting approximately 200 feet on the north line of East Hundred Road approximately 400 feet east of Meadowville Road. Tax IDs 814-652-5387 and 814-653-4407, 5807, 6613, 7317 and 7920.

Ms. Carrie Coyner, the applicant's representative, requested deferral of Case 07SN0134 to the regularly scheduled March 2008 Planning Commission public hearing.

There was no opposition to the deferral.

The following motion was made at the applicant's request.

On motion of Mr. Wilson, seconded by Mr. Gulley, the Commission resolved to defer Case 07SN0134 to the regularly scheduled March 2008 Planning Commission public hearing.

AYES: Messrs. Gecker, Gulley, Wilson, Litton and Bass.

**07SN0146:** (Amended) In Midlothian Magisterial District, **WINTERVEST, LLC** requested deferral to the regularly scheduled March 2008 meeting for consideration of amendment of Conditional Use Planned Development (Case 03SN0316) and amendment of zoning district map relative to uses and development requirements. The density of such amendment will be controlled by zoning conditions or Ordinance standards. The Comprehensive Plan suggests the property is appropriate for suburban commercial use. This request lies in a Community Business (C-3) District on 25.0 acres fronting approximately 1,420 feet on



the north line of Midlothian Turnpike approximately 340 feet west of Winterfield Road; also fronting approximately 850 feet on the south line of the Norfolk Southern Railroad approximately 640 feet west of Winterfield Road. Tax IDs 724-709-2311, 2528, 4210, 5831, 6911, 9121 and Part of 7661; and 725-709-1125.

Mr. John Easter, the applicant's representative, requested deferral of Case 07SN0146 to the regularly scheduled March 2008 Planning Commission public hearing.

There was no opposition to the deferral.

The following motion was made at the applicant's request.

On motion of Mr. Gecker, seconded by Mr. Wilson, the Commission resolved to defer Case 07SN0146 to the regularly scheduled March 2008 Planning Commission public hearing.

AYES: Messrs. Gecker, Gulley, Wilson, Litton and Bass.

**07SN0323:** In Dale Magisterial District, **RICHMOND 20 MHZ LLC** requested deferral to January 15, 2008, for consideration of Conditional Use and amendment of zoning district map to permit a communications tower in a Residential (R-7) District. The density of such amendment will be controlled by zoning conditions or Ordinance standards. The Comprehensive Plan suggests the property is appropriate for residential use of 1.0-2.5 dwelling units per acre. This request lies on 1.2 acres lying approximately 230 feet off the southeastern terminus of Cotfield Road, south of Pano Road. Tax ID 781-676-Part of 7315.

Mr. Brennen Keene, the applicant's representative, requested deferral of Case 07SN0323 to the January 15, 2008, Planning Commission public hearing.

There was no opposition to the deferral.

The following motion was made at the applicant's request.

On motion of Mr. Litton, seconded by Mr. Wilson, the Commission resolved to defer Case 07SN0323 to the January 15, 2008, Planning Commission public hearing.

AYES: Messrs. Gecker, Gulley, Wilson, Litton and Bass.

**07SN0372:** In Clover Hill Magisterial District, **EWN INVESTMENTS, INC.** requested deferral to December 18, 2007, for consideration of rezoning and amendment of zoning district map from Community Business (C-3) to Community Business (C-3) plus Conditional Use Planned Development to permit exceptions to Ordinance requirements. The density of such amendment will be controlled by zoning conditions or Ordinance standards. The Comprehensive Plan suggests the property is appropriate for mixed use corridor use. This request lies on 7.0 acres fronting approximately 860 feet in the northwest quadrant of the intersection of Hull Street Road and Duckridge Boulevard. Tax ID 722-671-1285.

Mr. Jim Theobald, the applicant's representative, requested deferral of Case 07SN0372 to the December 18, 2007, Planning Commission public hearing.

There was no opposition to the deferral.

The following motion was made at the applicant's request.

On motion of Mr. Gulley, seconded by Mr. Bass, the Commission resolved to defer Case 07SN0372 to the December 18, 2007, Planning Commission public hearing.

AYES: Messrs. Gecker, Gulley, Wilson, Litton and Bass.

◆ **DEFERRAL REQUESTS BY STAFF.**

**07SN0292:** In Bermuda Magisterial District, **EMERSON COMPANIES LLC** requested rezoning and amendment of zoning district map from Community Business (C-3) and General Business (C-5) to Residential Townhouse (R-TH) plus proffered conditions on an adjacent six (6) acre parcel zoned Community Business (C-3) and General Business (C-5). Residential use of up to 8.0 units per acre is permitted in a Residential Townhouse (R-TH) District. The Comprehensive Plan suggests the property is appropriate for general commercial use. This request lies on 16.2 acres fronting approximately 810 feet on the west line of Jefferson Davis Highway approximately 150 feet south of Velda Road. Tax IDs 794-665-8176 and 794-666-6515.

Ms. Carrie Coyner, the applicant's representative, accepted staff's recommendation for deferral of Case 07SN0292 to the December 18, 2007, Planning Commission public hearing.

There was no opposition to the deferral.

The following motion was made at Mr. Wilson's request.

On motion of Mr. Wilson, seconded by Mr. Gulley, the Commission, on their own motion, resolved to defer Case 07SN0292 to the December 18, 2007, Planning Commission public hearing.

AYES: Messrs. Gecker, Gulley, Wilson, Litton and Bass.

**07SN0386:** In Bermuda Magisterial District, **BROAD STREET PARTNERS COMMERCIAL LLP** requested rezoning and amendment of zoning district map from Agricultural (A), Community Business (C-3), General Business (C-5) and Residential (R-7) to Community Business (C-3) with Conditional Use to permit multifamily uses plus Conditional Use Planned Development to permit light industrial uses and exceptions to Ordinance requirements. The density of such amendment will be controlled by zoning conditions or Ordinance standards. The Comprehensive Plan suggests the property is appropriate for general commercial and residential use of 7.01 to 10.0 units per acre and under certain circumstances more intense uses such as high density residential, commercial and industrial uses. This request lies on 190.8 acres fronting approximately 1,340 feet in two (2) places on the east line of Jefferson Davis Highway north of Redwater Ridge Road approximately 1,000 feet on the south line of Osborne Road and approximately 1,820 feet on the west line of I-95. Tax IDs 798-656-4174, 7198 and 8099; 798-657-0830, 3703 and 5657; 799-655-4194; 799-656-0212; 799-657-3802; 800-656-5991; 800-658-9359; and 799-658-Part of 6575.

Mr. John V. Cogbill, III, the applicant's representative, requested deferral of Case 07SN0386 to the November 20, 2007, Planning Commission public hearing.

Mr. Gecker opened the discussion for public comment.

Ms. Andrea Epps, a County resident, stated she did not oppose the request but did support the deferral and asked that if Sylvester's Restaurant was encompassed by this proposal that consideration be given to preserving the historic structure.

There being no one else to speak, Mr. Gecker closed the public comment.

The following motion was made at Mr. Wilson's request.

On motion of Mr. Wilson, seconded by Mr. Litton, the Commission, on their own motion, resolved to defer Case 07SN0386 to the November 20, 2007, Planning Commission public hearing.

AYES: Messrs. Gecker, Gulley, Wilson, Litton and Bass.

**08SN0111:** In Bermuda Magisterial District, **TWIN RIVERS LLC** requested rezoning and amendment of zoning district map from General Industrial (I-2) to General Business (C-5) with Conditional Use to permit multifamily and townhouse uses plus Conditional Use Planned Development to permit exceptions to Ordinance requirements. The density of such amendment will be controlled by zoning conditions or Ordinance standards. The Comprehensive Plan suggests the property is appropriate for light industrial use. This request lies on 69.9 acres located in the southwest quadrant of Meadowville and North Enon Church Roads. Tax IDs 823-659-3856, 6573 and 9483; 823-660-4049; and 824-659-2386, 5689 and 8890.

Ms. Carrie Coyner, the applicant's representative, did not accept staff's recommendation for deferral and asked that Case 08SN0111 be heard, noting that revisions had been submitted on September 24, 2007, and that with minor adjustments the request was ready to be moved forward.

Mr. George Emerson, the applicant, stated the project was an integral part of the Meadowville Technology Park and would be beneficial to not only the community but also to the County in general. He stated he felt the proposal was in an acceptable posture to be moved forward and asked that the request be heard.

Mr. Wilson suggested that staff and the applicant would have an opportunity to correct technical issues prior the Board's consideration of the case and indicated he felt it was important to move the case forward so as to coordinate the development with other area development in a timely manner.

Mr. Bass stated he concurred with Mr. Wilson.

Mr. Gulley stated he understood the applicant's desire to have the case heard at this time; however, to move forward on the request without sufficient time to adequately review the revisions would set a precedent with respect to other similar requests and he felt a deferral was appropriate.

Mr. Gecker expressed concern relative to the late submission of the revisions and the inability of staff and the Commission to evaluate the amendments; that he felt to move forward would set an adverse precedent; and that he did not intend to hear the request at this time.

The following motion was made at Mr. Gulley's request.

On motion of Mr. Gulley, seconded by Mr. Gecker, the Commission, on their own motion, resolved to defer Case 08SN0111 to the November 20, 2007, Planning Commission public hearing.

AYES: Messrs. Gecker and Gulley.  
NAYS: Messrs. Wilson, Litton and Bass.

The motion failed for lack of a majority vote and was placed on the Discussion Agenda.

♦ **DEFERRAL REQUESTS BY INDIVIDUAL PLANNING COMMISSIONERS.**

**05SN0239:** (Amended) In Clover Hill Magisterial District, **THE CHEATHAM FAMILY LIMITED PARTNERSHIP** requested rezoning and amendment of zoning district map from Agricultural (A) to Community Business (C-3) with Conditional Use to permit multifamily and townhouse uses plus Conditional Use Planned Development to permit exceptions to Ordinance requirements. The density of such amendment will be controlled by zoning conditions or Ordinance standards. The Comprehensive Plan suggests the property is appropriate for regional mixed use uses. This request lies on 63.5 acres fronting approximately 550 feet on the north line of Hull Street Road, also fronting approximately 2,400 feet on the west line of Route 288 and located in the northwest quadrant of the intersection of these roads. Tax IDs 733-680-Part of 9439; 734-678-2276; and 734-681-0526 and 3904.

Mr. Andy Scherzer, the applicant's representative, accepted deferral of Case 05SN0239 by Mr. Gulley to the November 20, 2007, Planning Commission public hearing.

There was no opposition to the deferral.

The following motion was made at Mr. Gulley's request.

On motion of Mr. Gulley, seconded by Mr. Wilson, the Commission, on their own motion, resolved to defer Case 05SN0239 to the November 20, 2007, Planning Commission public hearing.

AYES: Messrs. Gecker, Gulley, Wilson, Litton and Bass.

**07SN0385:** In Matoaca Magisterial District, **FIRST COMMONWEALTH SERVICES** requested rezoning and amendment of zoning district map from Agricultural (A) to Residential (R-12). Residential use of up to 3.63 units per acre is permitted in a Residential (R-12) District. The density of such amendment will be controlled by zoning conditions or Ordinance standards. The Comprehensive Plan suggests the property is appropriate for residential use of 2.2 units per acre or less. This request lies on 8.2 acres fronting approximately 270 feet on the east line of Winterpock Road north of Springford Parkway; also fronting approximately 170 feet on the west line of Summercreek Drive across from Summercreek Place. Tax ID 722-661-8707.

Mr. Andy Scherzer, the applicant's representative, accepted deferral of Case 07SN0385 by Mr. Bass to the November 20, 2007, Planning Commission public hearing.

There was no opposition to the deferral.

The following motion was made at Mr. Bass' request.

On motion of Mr. Bass, seconded by Mr. Gulley, the Commission, on their own motion, resolved to defer Case 07SN0385 to the November 20, 2007, Planning Commission public hearing.

AYES: Messrs. Gecker, Gulley, Wilson, Litton and Bass.

**08SN0123:** In Matoaca Magisterial District, **RICHMOND 20 MHZ LLC** requested Conditional Use and amendment of zoning district map to permit a communications tower in a Residential (R-9) District. The density of such amendment will be controlled by zoning conditions or Ordinance standards. The Comprehensive Plan suggests the property is appropriate for single family residential use of 2.0 units per acre or less. This request lies on 30.0 acres fronting approximately 560 feet on the north line of Woodlake Village Parkway approximately 130 feet west of Laurel Trail Road. Tax IDs 722-677-8967 and 722-678-9060.

Mr. Brennen Keene, the applicant's representative, accepted deferral of Case 08SN0123 by Mr. Bass to the December 18, 2007, Planning Commission public hearing.

Mr. Gecker opened the discussion for public comment.

Ms. Nancy Frantel, a County resident, supported deferral of the request, stating she hoped a sixty (60) day deferral would be sufficient.

There being no one else to speak, Mr. Gecker closed the public comment.

The following motion was made at Mr. Bass' request.

On motion of Mr. Bass, seconded by Mr. Gulley, the Commission, on their own motion, resolved to defer Case 08SN0123 to the December 18, 2007, Planning Commission public hearing.

AYES: Messrs. Gecker, Gulley, Wilson, Litton and Bass.

**06SN0220:** In Dale Magisterial District, **BROOKSTONE BUILDERS** requested rezoning and amendment of zoning district map from Agricultural (A) and Residential (R-12) to Residential (R-15). Residential use of up to 2.9 units per acre is permitted in a Residential (R-15) District. The Comprehensive Plan suggests the property is appropriate for residential use of 1.0-2.5 dwelling units per acre. This request lies on 188 acres fronting in two (2) places approximately 1,250 feet on the north line of Jacobs Road, also fronting approximately 1,150 feet on the west line of Fordham Road and lying at the southern termini of Double Tree Lane and Land Grant Drive and the western termini of Barefoot Trail and Quail Ridge Road. Tax IDs 753-680-Part of 5601; 753-684-4148; 754-681-5861; 755-683-7406; 756-683-5406; 757-682-0789 and 3089; and 757-683-1431 and 1912.

Mr. Andy Scherzer, the applicant's representative, accepted deferral of Case 06SN0220 by Mr. Litton to the November 20, 2007, Planning Commission public hearing.

There was no opposition to the deferral.

The following motion was made at Mr. Litton's request.

On motion of Mr. Litton, seconded by Mr. Wilson, the Commission, on their own motion, resolved to defer Case 06SN0220 to the November 20, 2007, Planning Commission public hearing.

AYES: Messrs. Gecker, Gulley, Wilson, Litton and Bass.

**07SN0282:** (Amended) In Midlothian Magisterial District, **LUCAS PROPERTIES, LLC** requested rezoning and amendment of zoning district map from Residential (R-40) to Residential (R-15). Residential use of 2.90 units per acre is permitted in a Residential (R-15) District. The Comprehensive Plan suggests the property is appropriate for medium density residential use of 1.51 to 4.0 units per acre. This request lies on 12.1 acres fronting approximately 670 feet on the southwest line of Robious Road approximately 120 feet west of Corner Rock Road, also fronting approximately 600 feet on the west line of Corner Rock Road approximately 240 feet south of Robious Road. Tax IDs 734-717-9054 and 735-717-1268, 1405 and 2943.

Mr. Andy Scherzer, the applicant's representative, accepted deferral of Case 07SN0282 by Mr. Gecker to the November 20, 2007, Planning Commission public hearing.

There was no opposition to the deferral.

The following motion was made at Mr. Gecker's request.

On motion of Mr. Gecker, seconded by Mr. Wilson, the Commission, on their own motion, resolved to defer Case 07SN0282 to the November 20, 2007, Planning Commission public hearing.

AYES: Messrs. Gecker, Gulley, Wilson, Litton and Bass.

**07SN0333:** In Midlothian Magisterial District, **CHESTERFIELD COUNTY BOARD OF SUPERVISORS** requested rezoning and amendment of zoning district map from Residential (R-7), Neighborhood Business (C-2), Community Business (C-3), Regional Business (C-4) and General Business (C-5) to Regional Business (C-4) with Conditional Use to permit multifamily and townhouse uses plus Conditional Use Planned Development to permit exceptions to Ordinance requirements. The density of such amendment will be controlled by zoning conditions or Ordinance standards. The Comprehensive Plan suggests the property is appropriate for regional mixed use. This request lies on 83 acres located in the southwest quadrant of Midlothian Turnpike and Chippenham Parkway, also fronting on the north line of Cloverleaf Drive and the northern terminus of Starview Lane. Tax IDs 764-705-3864, 6668 and 8227; 764-706-3159-00001 and 00002 and 8861-00001 and 00002; 764-707-6112-00001 and 00002; 765-704-2693; 765-705-4651, 5781, 7651 and 7962; 765-706-1010-00001 and 00002, 4170, 6964, 8068 and 8842; and 765-707-6600.

Mr. Tom Jacobson, agent for the applicant, accepted deferral of Case 07SN0333 by Mr. Gecker to the November 20, 2007, Planning Commission public hearing.

Mr. Gecker opened the discussion for public comment.

Mr. John Easter, representing Crossland Development, the County's development partner, expressed dismay regarding deferral of the request at this time.

Mr. Jay Laffler, Chairman of the Gateway Association, stated he was concerned and interested in the activities at the Cloverleaf Mall site and would like to see the proposal moved forward at this time; however, he did reluctantly support the deferral.

There being no one else to speak, Mr. Gecker closed the public comment.

The following motion was made at Mr. Gecker's request.

On motion of Mr. Gecker, seconded by Mr. Bass, the Commission, on their own motion, resolved to defer Case 07SN0333 to the November 20, 2007, Planning Commission public hearing.

AYES: Messrs. Gecker, Gulley, Wilson, Litton and Bass.

◆ **REQUESTS WHERE THE APPLICANT ACCEPTS THE RECOMMENDATION AND THERE IS NO OPPOSITION PRESENT.**

**08SN0113:** In Clover Hill Magisterial District, **JEMI S. HODGE** requested rezoning and amendment of zoning district map from Light Industrial (I-1) to General Business (C-5). The density of such amendment will be controlled by zoning conditions or Ordinance standards. The Comprehensive Plan suggests the property is appropriate for light industrial use. This request lies on 1.4 acres and is known as 10910 Southlake Court. Tax ID 744-708-0657.

Ms. Jemi S. Hodge, the applicant, accepted staff's recommendation.

No one came forward to speak in favor of, or in opposition to, the request.

On motion of Mr. Gulley, seconded by Mr. Bass, the Commission resolved to recommend approval of Case 08SN0113.

AYES: Messrs. Gecker, Gulley, Wilson, Litton and Bass.

**08SN0118:** In Bermuda Magisterial District, **JOHNNIE MUNCY** requested Conditional Use and amendment of zoning district map to permit a dwelling unit separated from the principal dwelling unit in an Agricultural (A) District. The density of such amendment will be controlled by zoning conditions or Ordinance standards. The Comprehensive Plan suggests the property is appropriate for residential use of 1-5 acre lots, suited to R-88 zoning. This request lies on 1.1 acres and is known as 13200 Lewis Road. Tax ID 776-645-3571.

Mr. Johnnie Muncy, the applicant, accepted staff's recommendation.

No one came forward to speak in favor of, or in opposition to, the request.

On motion of Mr. Wilson, seconded by Mr. Litton, the Commission resolved to recommend approval of Case 08SN0118, subject to the following conditions:

## CONDITIONS

1. Occupancy of the second dwelling unit shall be limited to: the occupants of the principal dwelling unit, individuals related to them by blood, marriage, adoption or guardianship, foster children, guests and any domestic servants. (P)
2. For the purpose of providing record notice, prior to the issuance of a building permit to convert the existing garage structure into a dwelling unit, a deed restriction shall be recorded setting forth the limitation in Condition 1 above. The deed book and page number of such restriction and a copy of the restriction as recorded shall be submitted to the Planning Department. (P)

AYES: Messrs. Gecker, Gulley, Wilson, Litton and Bass.

**08SN0126:** In Matoaca Magisterial District, **ELEVEN OAKS, LLC** requested Conditional Use and amendment of zoning district map to permit horse boarding, riding and training lessons and shows associated with a stock farm in an Agricultural (A) District. The density of such amendment will be controlled by zoning conditions or Ordinance standards. The Comprehensive Plan suggests the property is appropriate for rural conservation area use. This request lies on 56.4 acres fronting approximately 10 feet on the south line of River Road approximately 2,320 feet east of Black Road. Tax ID 711-642-0774.

Ms. Carrie Coyner, the applicant's representative, accepted staff's recommendation and referenced a petition submitted in support of the request.

No one came forward to speak in favor of, or in opposition to, the request.

On motion of Mr. Bass, seconded by Mr. Gulley, the Commission resolved to recommend approval of Case 08SN0126 and acceptance of the following proffered conditions:

## PROFFERED CONDITIONS

1. Except for the timbering approved by the Virginia State Department of Forestry for the purpose of removing dead or diseased trees, there shall be no timbering on the Property until a land disturbance permit has been obtained from the Environmental Engineering Department and the approved erosion control devices have been installed. (EE)
2. Direct vehicular access from the property to River Road shall be limited to one (1) entrance/exit. (T)
3. Prior to any site plan approval or within ninety (90) days of a written request by the Transportation Department, whichever occurs first, forty-five (45) feet of right of way adjacent to the property, measured from the centerline of River Road, shall be dedicated free and unrestricted for the benefit of Chesterfield County. (T)
4. Horse boarding facilities and customary accessory uses such as, but not limited to, riding lessons, grooming services, training, pasture and barn areas, horse shows, shall be permitted. (P)



5. There shall be no outside public address systems or speakers. (P)
6. All facilities and areas associated with the keeping of horses, except for pasture areas, shall be setback a minimum of fifty (50) feet from any property line and from any existing or proposed public roads. (P)
7. All facilities and areas associated with the keeping of horse (stables, pastures, etc.) shall be cleaned and made free of waste on a regular basis. In addition, means of eliminating any odor problems and propagation of insects shall be employed.
8. A maximum of forty (40) horses may be boarded at any one time. (P)
9. There shall be no more than two (2) horse shows per year. (P)

AYES: Messrs. Gecker, Gulley, Wilson, Litton and Bass.

**08SN0130:** In Matoaca Magisterial District, **CHESTERFIELD COUNTY BOARD OF SUPERVISORS** requested Conditional Use and amendment of zoning district map to permit a computer-controlled, variable message, electronic sign. The density of such amendment will be controlled by zoning conditions or Ordinance standards. The Comprehensive Plan suggests the property is appropriate for mixed use corridor use and residential use of 2.0 units per acre or less. This request lies in an Agricultural (A) District on 87.2 acres fronting approximately 450 feet on the north line of Cosby Road approximately 620 feet west of Fox Club Parkway; also fronting in two (2) places approximately 1,760 feet on the west line of Fox Club Parkway approximately 600 feet north of Cosby road. Tax ID 714-672-8571.

Mr. Kirk Turner, agent for the applicant, accepted staff's recommendation.

No one came forward to speak in favor of, or in opposition to, the request.

On motion of Mr. Bass, seconded by Mr. Wilson, the Commission resolved to recommend approval of Case 08SN0130, subject to the following condition:

**CONDITION**

In addition to Ordinance requirements, any computer-controlled, variable message, electronic sign shall conform to the following standards:

- a. Copy shall be limited to a maximum of two (2) lines which shall not move, but may fade;
- b. The message or display shall be programmed or sequenced to change no more than once every twenty-four (24) hours;
- c. The copy display color shall either be white or yellow;
- d. Flashing and traveling messages shall be prohibited; and

- e. Bijou lighting and animations effects shall be prohibited. (P)

AYES: Messrs. Gecker, Wilson, Litton and Bass.  
ABSTENTION: Mr. Gulley.

**07SN0354:** (Amended) In Midlothian Magisterial District, **NEW CINGULAR WIRELESS PCS, LLC** requested Conditional Use and amendment of zoning district map to permit a communications tower in a Residential (R-40) District. The density of such amendment will be controlled by zoning conditions or Ordinance standards. The Comprehensive Plan suggests the property is appropriate for residential use of one (1) dwelling per acre or less. This request lies on 9.7 acres fronting approximately twenty-two (22) feet on the west line of James River Road approximately 780 feet south of Riverton Ridge Drive. Tax ID 728-725-Part of 6105.

Mr. Brennen Keene, the applicant's representative, accepted staff's recommendation.

No one came forward to speak in favor of, or in opposition to, the request.

On motion of Mr. Gecker, seconded by Mr. Wilson, the Commission resolved to recommend approval of Case 07SN0354, subject to the following conditions and acceptance of the following proffered conditions:

#### CONDITIONS

1. The color and lighting system for the tower shall be as follows:
  - a. The tower shall be gray or another neutral color, acceptable to the Planning Department.
  - b. The tower shall not be lighted. (P)
2. Any building or mechanical equipment shall comply with Sections 19-595 and 19-570 (b) and (c) of the Zoning Ordinance relative to architectural treatment of building exteriors and screening of mechanical equipment. (P)  
  
(NOTE: Section 19-570 (b) and (c) would require the screening of mechanical equipment located on the building or ground from adjacent properties and public rights of way. Screening would not be required for the tower or tower-mounted equipment.)
3. The tower shall not exceed a height of 115 feet. (P)
4. At such time that the tower ceases to be used for communications purposes for a period exceeding twelve (12) consecutive months, the owner/developer shall dismantle and remove the tower and all associated equipment from the property. (P)

#### PROFFERED CONDITIONS

New Cingular Wireless PCS, LLC, the applicant in this case (the "Applicant"), pursuant to §15.2-2298 of the Code of Virginia (1950 as amended) and the Zoning Ordinance of Chesterfield County, for itself and its

successors or assigns, proffer that the development of the property known as Chesterfield County Tax Identification Number 728-725-Part of 6105 (the "Property") under consideration will be developed according to the following conditions if, and only if, the request for a conditional use is granted. In the event the request is denied or approved with conditions not agreed to by the Applicant, the proffers and conditions shall immediately be null and void and of no further force or effect. If the conditional use is granted, these proffers and conditions will supersede all proffers and conditions now existing on the Property.

1. Co-location. Except as provided below, any communication tower shall be co-located on a lighting structure for the athletic field as depicted on "Exhibit A". Notwithstanding the foregoing or anything else to the contrary, the Applicant shall have the option to operate a temporary telecommunications facility (e.g. a "C.O.W." or "cell on wheels") on the Property provided that (i) such operation commences no earlier than December 20, 2007 and no later than December 31, 2007, (ii) such temporary facility ceases operations and is removed from the Property on or before March 31, 2008 or upon the completion of all work to collocate antennas on the lighting structure, whichever occurs first, (iii) such temporary facility does not use a back-up electricity generator as its primary source of electricity, and (iv) such temporary facility is enclosed in a security fence at least six (6) feet in height with three strands of barbed wire at the top of such fence. (P)
2. Architectural Treatment of Ground-Based Equipment Shelter. The permanent ground-based equipment shelter (the "Shelter") exterior shall be covered with a brick veneer siding that incorporates a color that is generally consistent with the color of the block material of the existing athletic field house located on the Property. The roof of the Shelter shall be constructed with an "A" frame pitched roof and shingled with shingles that match in color and design of the shingles on the existing athletic field house on the Property. (P)

(NOTE: This Proffer 2 is in addition to and supplements Condition 3 contained in the Staff Report)

2. Access Road. The access road from the existing parking lot to the communications tower shall be paved with asphalt or any other hard-surface material (other than gravel) acceptable to the Planning Department.
4. Utilities. All cabling from the Shelter to the communications tower shall be buried below grade. Any cabling connecting to the equipment in the Shelter shall be installed through the floor of the Shelter structure.

AYES: Messrs. Gecker, Gulley, Wilson, Litton and Bass.

**07SN0383:** In Bermuda Magisterial District, **ECONOMIC DEVELOPMENT AUTHORITY OF THE COUNTY OF CHESTERFIELD** requested amendment of Conditional Use Planned Development (Case 96SN0203) and amendment of zoning district map relative to building height and buffers. The density of such amendment will be controlled by zoning conditions or Ordinance standards. The Comprehensive Plan suggests the property is appropriate for light industrial use. This request lies in a General Industrial (I-2) District on 1,235.0 acres fronting the east line of I-295, the north line of Bermuda Hundred Road and the west line of North Enon Church Road. Tax IDs 819-657-7858; 819-658-5187; 820-658-6860; 820-660-

5779; 821-657-4246 and 9537; 821-658-1520, 5331, 5444, 7658 and 9684; 821-659-0540 and 3755; 822-651-1677 and 8107; 822-656-4298; 822-658-1306; 822-659-1607 and 3217; 823-654-1524; 823-655-8513; 823-656-8564; 823-658-0538; 824-652-9603; 824-654-0075; 824-655-5551; 824-658-6649; and 825-653-9567.

Mr. John Easter, the applicant's representative, accepted staff's recommendation and referenced submittal of an amended Textual Statement dated October 16, 2007, which amended and superseded Conditions 4 and 6 of Case 96SN0203.

No one came forward to speak in favor of, or in opposition to, the request.

On motion of Mr. Wilson, seconded by Mr. Gulley, the Commission resolved to recommend approval of Case 07SN0383, subject to the following condition:

CONDITION

The Amendments to the Textual Statement for Case 96SN0203 dated October 16, 2007, shall be approved. (P)

AYES: Messrs. Gecker, Gulley, Wilson, Litton and Bass.

The Commission recessed at 6:50 p. m. and reconvened at 7:00 p. m.

Mr. Gecker announced that the agenda was being reordered to hear the proposed Code Amendment relating to the *Impact Fee Road Improvement Plan*, Comprehensive Plan Amendment and Impact Fee Ordinance prior to the proposed Code Amendment relating to the Neo-Traditional Zoning District Classification.

◆ **COMPREHENSIVE PLAN AND CODE AMENDMENTS.**

◆ **Proposed Code Amendment Relating To *Impact Fee Road Improvement Plan*, Comprehensive Plan Amendment and Impact Fee Ordinance.**

◆ ◆ ◆

An ordinance to amend the Code of the County of Chesterfield, 1997, as amended, by adding sections 9-250 through 9-256 relating to the establishment of a system of transportation impact fees to fund and recapture the cost of providing reasonable road improvements. The public hearing will also include consideration of changes to the County's Comprehensive Plan relating to the proposed impact fee program and adoption of an Impact Fee Road Improvements Plan.

The amount of the proposed impact fee is \$5,820 per residential dwelling unit. The legal authority for enactment of the proposed fee is found in Article 8, Chapter 22 of Title 15.2 of the Code of Virginia and more particularly in Va. Code §15.2-2319.

Comprehensive Plan Amendment/Impact Fee Road Improvements Plan:

If adopted by the Board of Supervisors, the Impact Fee Road Improvements Plan will become part of The Plan for Chesterfield, the County's comprehensive plan, which is used by County citizens, staff, the Planning Commission and Board of Supervisors as a guide for future decisions affecting the County including, but not limited to, decisions regarding future land use, road networks and zoning actions. The Plan does not rezone land, but suggests Ordinance amendments and other actions.

The Impact Fee Road Improvement Plan shows road improvements that could be constructed as part of the proposed impact fee system. The impact fee service area to be designated within the County's comprehensive plan is comprised of the entire County of Chesterfield. The Impact Fee Road Improvement Plan is based on a needs assessment that concludes that a number of roads in the County may need to be constructed, improved and/or expanded based on projected new development in the County for the next 20 years. A listing of such transportation improvements is available in the complete needs assessment study. The assessment is based on the County's current growth projections and on a computer-based TP+ transportation model. The complete needs assessment study is available to be examined and copied at the Transportation Department during normal business hours.

Text of Impact Fee Ordinance Amendment:

The proposed impact fees ordinance would add Sections 9-250 through 9-256 to the County Code and, unless otherwise provided by the Board of Supervisors, would be effective upon adoption. The text of the proposed ordinance reads as follows:

"Section 9-250. Establishing a system of impact fees.

Pursuant to Code of Virginia § 15.2-2322, the county hereby establishes a system of impact fees to fund reasonable road improvements benefiting new residential development. In accordance with Code of Virginia §15.2-2320, one or more impact fee service areas shall be designated by amendment to the county's comprehensive land use plan. Such plan amendment may designate the entire county as one impact fee service area.

Section 9-251. When impact fees determined and collected.

- (a) Pursuant to Code of Virginia § 15.2-2323, the amount of impact fees to be imposed on a specific development shall be determined no later than final subdivision or site plan approval.
- (b) Pursuant to Code of Virginia § 15.2-2323, the impact fee shall be collected for each residential lot or housing unit at the time a building permit is issued for such lot or housing unit.
- (c) No building permit shall be issued for a lot or housing unit on which an impact fee has been imposed unless the owner of the lot or housing unit, or his agent, has (i) paid the applicable impact fee or (ii) has executed an agreement provided by the county and secured by a bond or a letter of credit approved by the county, to pay the impact fee, in equal installments, over a period of no more than 3 years. If payments are made in

installments pursuant to subsection (c) (ii), interest on the unpaid portion shall accrue interest at the rate specified in § 9-6 of this Code.

- (d) The calculation of an impact fee may be appealed by the owner or his agent to the Chesterfield County Board of Zoning Appeals. A notice of appeal shall be filed with the director of planning within 60 days of the calculation of the impact fee amount by the county. The owner or agent shall submit the substantive basis for his appeal to the director of planning within 60 days of filing a notice of appeal. The decision of the Board of Zoning Appeals may be appealed in accordance with state law.

Section 9-252. Determination of the amount of the impact fee.

- a) The impact fee for a development shall be determined by dividing (i) the projected road improvement costs within the impact fee service area in which the development is located by (ii) the number of projected housing units within the impact fee service area when such area is fully developed. This calculation shall be based on the number of trips generated by each such housing unit. The projected road improvement costs for each impact fee service area shall be calculated in accordance with the county's road improvement plan as specified in Code of Virginia §15.2-2321.
- b) The value of any dedication, contribution or construction from the developer for off-site road or other transportation improvements benefiting the impact fee service area shall be treated as a credit against the impact fees imposed on the developer's project whether by condition of zoning or other written commitment to the county. The county shall also calculate and credit against the impact fees the extent to which (i) other developments have already contributed to the cost of existing roads which will benefit the development, (ii) new development will contribute to the cost of existing roads, and (iii) new development will contribute to the cost of road improvements in the future other than through impacts fees, including any special taxing districts, special assessments, or community development authorities.

- c) The schedule of impact fees is:

<u>Use</u>	<u>Impact Fee</u>
Residential	\$5,820
Commercial	\$ 0
..... Industrial	\$ 0

Section 9-254. Updating road improvement plan and amending impact fees.

In accordance with Code of Virginia § 15.2- 2325, the Board of Supervisors shall update the impact fee road improvement plan at least every two years. The impact fee schedule shall be amended to reflect substantial changes in the road improvement plan. Any impact fees not yet paid at the time of the amendment to the impact fee schedule shall be assessed at the applicable amended amount.

Section 9-255. Use of impact fees.

A separate road improvement account shall be established for each impact fee service area and all funds collected through impact fees shall be deposited in the appropriate account. Each account shall bear interest which shall become funds of the account. The expenditure of funds from the account shall be only for road improvements benefiting the impact fee service area as set out in the road improvement plan for such impact fee service area.

#### Section 9-256. Refunds.

The county shall refund any impact fee in accordance with the requirements of the Code of Virginia § 15.2-2327."

The proposed ordinance and information concerning the documentation of the proposed impact fee are available for examination by the public at the Transportation Department 9800 Government Center Parkway, Chesterfield, VA, and at the County Administrator's Office, during normal business hours.



Mr. Steve Micas, County Attorney, presented an overview of a 2007 General Assembly legislative amendment pertaining to road needs and impact fees, including information relative to the Impact Fee Program timeline; typical road construction costs; Chesterfield County Secondary Road allocations and Interstate/Primary allocations; total un-built cash proffer lots; total un-built impact fee lots; the road cash proffer component; the cumulative promised/collected cash proffer; requirements of the 2007 Impact Fee Legislation; and other elements of the proposal, as well as staff's recommendation.

Mr. Gecker presented a history of the proposal, noting the proposal was forwarded to the Commission by the Board of Supervisors in July 2007 at which time the Board directed the Commission to conduct a public hearing and forward a recommendation in October 2007. He stated there was minimal support for the proposal from the Commission; asked that those in attendance be mindful of the number of persons wishing to speak to the issue; and indicated that anyone wishing to do so could address the issue again at the Board of Supervisors' level. He also noted the Commission felt strongly that effective and appropriate notice required a mailing to each individual landowner who may have been potentially affected by the proposal.

Mr. Micas indicated the Board of Supervisors had scheduled a Work Session on this issue a their October 24, 2007, meeting at which time the Board may or may not schedule a public hearing.

Mr. Gecker opened the discussion for public comment.

Retired Lieutenant Colonel Robert S. Brooks, a County resident, voiced opposition to the proposal, noting he had paid taxes on his land for forty (40) years and that, in his opinion, impact fees were illegal.

Ms. Andrea Epps, on behalf of the Impact Fee Ordinance Advisory Committee, referenced a report the Committee had provided the Commission; indicated the Committee did not recommend adoption of the Impact Fee Ordinance at this time; and cited Committee concerns relative to the need for an overall economic analysis; the appointment of a Task Force to study the issues; and addressing the credit process outlined in the proposal.

Mr. Paul Barr stated, as a work force housing builder, the proposed impact fee would be detrimental to the industry and would preclude many people being able to afford to live in the County. He asked that consideration be given to waiving the impact fees for construction of work force housing under the \$180,000 range and that consideration be given to requiring the impact fee on a per site basis instead of per lot basis.

Mr. Charlie Primm, a builder/developer and County resident, opposed the proposal, citing concerns relative to the long-term effect impact fees would have on the affordability of housing in the County, particularly future generations.

Mr. Robert Fitzgerald, a builder/developer and County resident, expressed concerns that the proposal was unfair to all concerned and stated it should be denied.

Mr. David Webb, a County resident, urged the Commission to recommend to the Board that the proposal be rejected, noting that approval would do little to mitigate existing/future road improvement problems and, if approved, would give the Board of Supervisors an excuse to not to do their duty to adamantly examine the transportation policies of the County and propose measures that would solve them.

Mr. Tom Cauble, a County resident, distributed a handout to the Commission; stated he opposed the proposal, noting that impact fees should not be limited to only residential properties; and noted that approval of the proposal would be detrimental to the housing industry and overall economic health of the County.

Dr. Janeshwar Upadhyay, owner of property at the intersection of Rowanty Court and Dupuy Road, opposed the proposal, and asked the Commission to forward a recommendation of denial to the Board of Supervisors.

Mr. John K. McKeowan, a Matoaca District resident, opposed the proposal, citing concerns that approval of impact fees would be detrimental to an already diminishing farming industry and discourage future generations from continuing small farm family traditions.

Mr. Tyler Craddock, a Bermuda District resident and representative for the Home Builders Association of Richmond, opposed the proposal, noting that such a tax would be detrimental to the local regional housing economy; that now was the worst time to impose a tax on housing as it would only serve to further slow the housing market more; that such a tax would make housing more expensive not only for those select properties on which imposed but for everyone; that the imposition of such a tax would lower the market value of landowners' property and possibly preclude the sale of such land; and that public infrastructure improvements benefited everyone and, as a result, everyone should pay for them; that no one industry or single class of citizen should be singled out to pay for road improvements that would benefit everyone; and stated the proposal, as submitted, needed further examination of the issues involved and all the economic impacts.

Mr. Bob Newman, a County resident and representative for the Better Housing Coalition, opposed the proposal, noting that, if approved, impact fees would detrimentally impact the affordability of work force housing in the County.



Mr. Greg Lupsha, a County resident, opposed the proposal, citing concerns that imposition of such fees would detrimentally impact the value of, and reduce the equity in, his home. He stated, if approved, such fees would encourage residents to move to other localities and indicated he felt the fees represented fiscal irresponsibility of the Board of Supervisors. He stated Chesterfield County did not need the bad publicity and adversity that would be created from irresponsibly levying fees to cover up past budget and planning irresponsibility.

Mr. Gregory Brown, a County resident, opposed the proposal, stating he felt the fees were impulsive, ludicrous, proprietary and unfair. He stated he felt the necessary funds could be allocated from other County resources or obtained from State and/or other Federal agencies.

Mr. Joseph Walter, a Bermuda District resident, opposed the proposal, noting that the fees, if approved, in conjunction with other existing County fees, were devastating the building/developer industry. He questioned how could developers be expected to construct affordable housing for County residents given the manner in which they were being taxed and inquired where the revenues collected by the County were allocated and expended.

Mr. Darryl Jenkins, a County resident, expressed appreciation to the Commission for their efforts in ensuring that all potentially affected landowners were properly notified of the proposed impact fees; stated he concurred with many of the previously stated comments; pointed out his opposition to the proposal; and urged the Commission to recommend to the Board that the issue be abandoned altogether.

Ms. Brenda Stewart, a Matoaca District resident, presented a copy of her remarks to the Commission; emphasized that the proposed amendment was not ready to be forwarded to the Board; and asked that the Commission defer any recommendation until such time as the public had had a proper opportunity to obtain answers to their questions. She stated her inquiries to both the County Attorneys' Office and the Planning Department had been unanswered thus far; asked that the public be afforded an opportunity to attend a meeting where officials who could and would answer their questions would be available; and stated that only after that time would it be appropriate to proceed with consideration of the amendments. She cited issues within the proposed Code Amendment, which she outlined, and stated imposition of impact fees would only serve to relieve the County and/or State of fulfilling its legal responsibility to maintain the roads in Chesterfield County as well as place an unnecessary burden on the taxpayers of the County. She stated there was much more work to be done before a recommendation was offered to the Board of Supervisors and she opposed implementation of the proposed impact fees.

In response to Ms. Stewart's comments, Mr. Gecker stated that the Commission was mandated by the Board of Supervisors to conduct the public hearing and return a recommendation at this time and under State law, the Commission had no options.

Mr. Roy Mastro, a Bermuda District resident, opposed the proposed amendment, citing that many of the landowners affected by this proposal were older citizens of the County who were already paying taxes on their properties and, in his opinion, impact fees had already been implemented via tremendously increased property assessments over the past few years.

Ms. Margaret Davis, a Bensley Village resident, opposed the proposed amendment, citing concerns relative to the adverse financial impact such fees would have on senior members and/or young families in the community. She stated alternative methods of funding transportation needs in the County (i.e., assistance

from State agencies or lottery funds) should be examined and asked the Commission to forward a recommendation of denial to the Board of Supervisors.

Ms. Donna Lewis, a Dale District resident, voiced opposition to the propose amendments; asked that the proposed fees not be imposed on only a select few landowners in the County; and stated that consideration should be given to taxing all citizens of the County fairly – that to do otherwise was unfair taxation.

Mr. Bobby Rock, a Matoaca District resident, opposed the proposal, citing concerns relative to the detrimental financial impact such fees would have to landowners/developers.

Mr. Jeff Collins, a County resident and developer, opposed the proposal, noting that the benchmark for any legislation passed by the County should be that the legislation would be fair and equitable; that he felt the proposed impact fees were basically singling out landowners who had owned their properties for decades; and approval of this amendment would be telling these landowners, who had paid taxes for decades, that they now would have to expend additional monies if they wanted to develop their land. He stated transportation problems in the County were real but they were everybody's problem, not just the problems of a handful of landowners. He asked the Commission to recommend to the Board that they not consider this proposal in a positive manner.

There being no one else to speak, Mr. Gecker closed the public hearing.

Mr. Gulley stated he did not intend to support the proposal; commended the Impact Fee Ordinance Advisory Committee for preparing what he considered to be a very good report; stated that, with all the information the Commission had been presented in work sessions and in the Advisory report, he had developed an appreciation for the work that still needed to be done before impact fee could be imposed; and that he did not feel that impact fees should be imposed just because the General Assembly had empowered the County to do so. He stated he concurred with Mr. Collins that the fees should be shared equitably by the entire population and a determination as to how that could be accomplished would take time; that it would be unfair to impose impact fees on a select group of people to pay for road improvements; and that, even if impact fees were approved, the funds collected would, over the course of twenty (20) years, accomplish very little to affect the road infrastructure as it now exists. He stated he did not intend to support the impact fee proposal and would hope that the Board would table the measure before citizens had to gather again to speak in opposition to the proposal.

Mr. Bass made a motion that the Commission recommend denial of the proposed Code Amendment relating to the Impact Fee Ordinance.

Mr. Gulley seconded the motion.

Mr. Wilson stated he intended to support the motion to recommend denial of the proposed Code Amendment as he felt it was unfair, not only to the citizens in attendance speaking in opposition but also to those who were not in attendance who opposed the amendment. He stated clearly there was a transportation challenge in the County and solutions need to be ascertained. He stated this proposal, in combination with some other future proposal, may be an element to solving the problem; however, in isolation, this proposal would not. He stated there needed to be a collective County effort to solve the transportation problem; to impose piecemeal solutions on certain segments of the County was unfair and inappropriate action; and he could not support the proposal.

Mr. Litton stated he supported the motion to recommend denial of the proposed impact fees; that he had received more telephone calls relative to this particular issue than he had on any zoning case he had ever handled in the Dale District; that the majority of the calls were from senior citizens who had purchased land as an investment for their retirement; and he was not willing to gamble that this proposal would not adversely harm them.

Mr. Gecker concurred with Mr. Craddock's comments; stated he felt it unfair to take money from citizens without giving a corresponding benefit to the people from whom the money was being taken; and that he supported the motion to recommend denial of the proposed Code Amendment relating to the Impact Fee Ordinance.

AYES: Messrs. Gecker, Gulley, Wilson, Litton and Bass.

On motion of Mr. Gulley, seconded by Mr. Wilson, the Commission resolved to recommend denial of the proposed *Impact Fee Road Improvement Plan* and Comprehensive Plan Amendment.

AYES: Messrs. Gecker, Gulley, Wilson, Litton and Bass.

◆ **Proposed Code Amendment Relating To Neo-Traditional Zoning District Classification.**



Amendments to the County's Comprehensive Plan and Zoning Ordinance that would establish a Traditional Neighborhood Development Mixed Use (TND-MU) zoning district. No property will be rezoned by these amendments but, if these amendments are adopted by the Board of Supervisors, the TND-MU zoning district would be available to landowners and the County for possible future rezoning actions. The proposed Comprehensive Plan amendment and the Zoning Ordinance amendments are described in more detail below:

**Comprehensive Plan Amendment:**

An amendment to the Introduction to the Plan For Chesterfield ("Plan"). The amendment would add the following language to the discussion of neighborhood development goals and policies:

Traditional neighborhood development (TND) provides opportunities for creating new mixed-use, pedestrian-oriented, activity centers containing a variety of uses, including, business, retail, residential, cultural, educational, and other public and private uses. Traditional neighborhood development encourages physical community building at the neighborhood scale, while providing a range of housing choice. TND districts may be appropriate, subject to Board of Supervisors approval, for areas with the following Comprehensive Plan land use designations: Community Mixed Use; Community Mixed Use Center; Community Mixed Use Node; Regional Mixed Use; Regional Mixed Use Center; and Regional Mixed Use Node.

If adopted by the Board of Supervisors, the amendment will become part of the Plan, the County's comprehensive plan. The Plan is used by County citizens, staff, Planning Commission and Board

of Supervisors as a guide for future decisions affecting the County including, but not limited to, decisions regarding future land use, road networks and zoning actions. The Plan does not rezone land, but suggests Ordinance amendments and other actions.

### **Zoning Ordinance Amendments:**

An ordinance to amend the Code of the County of Chesterfield, 1997, as amended, by adding Sections 19-200.1 through 19-200.12 relating to the TND-MU zoning district. A summary of the proposed ordinance amendments is set forth below.

The purpose/intent of the TND-MU zoning district includes, among other things, (1) allowing development of mixed-use, pedestrian-oriented, activity centers; (2) incorporating publicly accessible community open space; (3) encouraging high quality development/redevelopment; (4) permitting compatible mix of uses; (5) increasing number of permitted principal and accessory uses in a single district; (6) and encouraging high quality redevelopment by permitting regulatory flexibility and innovative and creative design. Applicable design principles include: (1) compact development patterns; (2) human scale development; (3) mixing nonresidential and residential land uses; (4) providing a community center and focus; (5) promoting mix of housing types on varying lot sizes; (6) encouraging in-fill residential and/or nonresidential development and redevelopment; and (7) incorporating narrow, interconnected streets with sidewalks, bikeways, and transit. The ordinances provide a number of definitions relating to TND-MU projects.

The TND-MU district would allow a number of uses, including among others, access to land in certain zoning districts; accessory uses, buildings, and structures; automobile self-service stations; bed and breakfast establishments; boarding houses; catering establishments; churches and other places of worship; clubs and lodges: civic, fraternal, non-profit, private, public, or social; cocktail lounges and nightclubs; colleges, public or private; communication antennas integrated into the design of a permitted building; communication offices, studios, and stations; not including towers; conference centers; convenience store; dwellings: attached, detached, duplex, live/work, multiple-family, single-family, townhouse, two-family; fire stations and emergency rescue squads, buildings and grounds; fraternities (in conjunction with school or college); funeral homes; galleries, art; government buildings; group homes; hospitals and other medical facilities; hotels; laboratories: dental, medical, and optical; libraries, public or private; meal preparation and delivery services; messenger services; model homes; mortuaries; museums, public or private; offices: dental, general, medical, project management, temporary real estate; parking lots: commercial, non-commercial, park and ride; personal service establishments; post offices; public utility service buildings; recreational establishments, commercial-indoor; restaurants and cafes: carry-out, fast-food, or sit-down; retail, general; schools, public or private; schools, specialty; sororities (in conjunction with school or college); telephone exchanges; theaters (except drive-in theaters); upon approval of the Director of Planning, other uses not specifically enumerated in this chapter that are of the same general character as specifically enumerated uses; and utility uses located underground or not requiring a structure.

The TND-MU district would provide for a number of restricted uses, including among others, check cashing, incidental, subject to limitations of §19-145(h); Christmas tree sales, temporary, subject to limitations of §19-152(h); construction buildings/trailers, temporary, subject to limitations of §19-131(e); group care facilities, provided that facilities in excess than 10,000 square feet shall be

limited to the Community Center, and group care facilities in Community Center shall have at least 50% of the ground-floor frontage that faces adjoining streets to include tenant spaces for commercial use with primary entrances facing the adjoining street; home occupations, subject to limitations of §19-65(e); intercoms accessory to permitted uses, not audible to any residential use; motor vehicle rental and repair, subject to limitations of §19-159(f); outside display/storage, subject to limitations of §19-159(i); parks, public or private, not exceeding five acres of active recreational uses; pet grooming shops, subject to limitations of §19-145(d); plant nurseries not exceeding 10,000 square feet of total floor area; public address systems (outside), not audible to any residential use; recreational establishments / facilities, outdoor, not exceeding five acres; satellite dishes, subject to limitations of §19-131(h); utility uses requiring a structure, public or private, subject to limitations of §19-131(g); veterinary clinics or offices, subject to limitations of §19-131(f); and warehouses, subject to limitations of §19-138(i). If these restrictions cannot be met, these uses may be allowed by conditional use.

The TND-MU district would provide for a number of accessory uses, including among others, boat houses, private; docks, private; equipment storage buildings; garages, private; gardens and garden buildings, private; grounds keeping buildings; hothouses, residential; in-law dwelling units; maintenance buildings; microbreweries; piers, private; plant propagation and cultivation (not for sale); crop, flower, tree, shrub; signs; storage buildings, private; structures devoted to maintenance, grounds keeping and equipment storage; swimming pools and adjoining deck areas; tennis courts; tool buildings, private; and yard sales.

The TND-MU district would provide for the following conditional uses subject to provisions of §19-13: communication towers; halfway houses; liquor stores; and mini-storage/warehouse facilities. It would also provide for the following uses by special exception subject to provisions of §19-21: kennel, private; and yard sales in excess of 2 days.

In addition, the proposed ordinance amendments establish application procedures for approving an application for zoning to a TND-MU district, including among other things a requirement for a Master Zoning Plan and a Design Guidelines Manual, and the procedures for filing applications for an overall development plan, and site plan or subdivision plan approvals.

The proposed ordinance amendments also provide design standards and guidelines for projects in the TND-MU district: Among other things, these standards provide:

- (a) Minimum project area requirement of 60 acres, or 20 acres for infill/redevelopment projects if a 60-acre sphere of influence is established with existing adjacent neighborhoods;
- (b) Mix of uses in project design, providing for, among other things a horizontal and vertical mix of non-residential, residential, commercial and community center uses across the project and within buildings;
- (c) Minimum percentages and standards for open space, conservation, and outdoor recreation uses;
- (d) Maximum building height standards;
- (e) Minimum lot requirements and block standards as established in the applicable Overall Development Plan;
- (f) standards for public streets and motor vehicle circulation shall be designed to promote pedestrian and bicycle activity;
- (g) parking standards;
- (h) landscape and buffering standards;
- (i) required tree and shrub plantings;
- (j) minimum planting areas for screen landscaping;
- (k) standards for lighting and street lights;
- (l) standards for signage; and
- (m) provisions for bicycle and pedestrian circulation.

Discussion may include all of the recommendations listed above. After the public hearing, appropriate changes or corrections may be made to the proposed amendments.



Mr. Tompkins presented an overview of the proposed Code Amendment relating to the creation of a Traditional Neighborhood Development-Mixed Use Zoning (TND-MU) District, highlighting elements of the proposal relative to the purpose and intent of the district; definitions; uses permitted by right; accessory uses; uses with certain restrictions; conditional uses; special exceptions; application procedures and approval processes; rezoning application requirements; development plan review process; and site plan and subdivision plan review.

Mr. Gecker opened the discussion for public comment.

Mr. Tyler Craddock, representing the Homebuilders Association of Richmond; Ms. Amy Satterfield, representing the Village of Midlothian Volunteer Coalition; Ms. Andrea Epps, a County resident; Mr. Dave Anderson, a County resident and member of the development community; and Mr. Bob Newman, representing the Better Housing Coalition, voiced support for the proposal.

There being no one else to speak, Mr. Gecker closed the public comment.

In response to questions from the Commission, Mr. Turner noted there were minor technical corrections to the proposal that were necessary and staff concerns that needed to be addressed and suggested the Commission defer the matter to the November 20, 2007, Planning Commission public hearing.

On motion of Mr. Wilson, seconded by Mr. Gulley, the Commission resolved to defer the proposed Amendments to the County's Comprehensive Plan and Zoning Ordinance that would establish a Traditional Neighborhood Development Mixed Use (TND-MU) Zoning District to the November 20, 2007, Planning Commission public hearing.

AYES: Messrs. Gecker, Gulley, Wilson, Litton and Bass.

◆ **REQUESTS WHERE THE APPLICANT DOES NOT ACCEPT THE RECOMMENDATION AND/OR THERE IS PUBLIC OPPOSITION PRESENT.**

**08SN0121:** In Bermuda Magisterial District, **CMA PROPERTIES INC.** requested Conditional Use Planned Development and amendment of zoning district map to permit exceptions to Ordinance requirements relative to signs. The density of such amendment will be controlled by zoning conditions or Ordinance standards. The Comprehensive Plan suggests the property is appropriate for general commercial use. This request lies in a General Business (C-5) District on 5.2 acres fronting approximately 760 feet on the east line of Interstate 95 approximately 500 feet south of Ruffin Mill Road. Tax IDs 804-637-4161 and 804-638-3807.

Ms. Peterson presented an overview of the request and staff's recommendation for denial, noting the current sign standards of the Ordinance provided adequate identification for uses on the property; approval of the request could encourage other businesses to seek similar exceptions thereby resulting in sign proliferation;

and a second freestanding identification sign was recently approved on property further south along Interstate 95. She further noted the request included only part of Tax ID 804-637-4161 and should the Commission recommend approval, acknowledgement of withdrawal of only a two (2) acre portion of the subject property would be appropriate.

Ms. Joan Goble, the applicant's representative, did not accept staff's recommendation, citing the history and success of other similar existing area businesses with multiple signage and asked the Commission to consider a favorable recommendation.

No one came forward to speak in favor of, or in opposition to, the request.

On motion of Mr. Wilson, seconded by Mr. Gulley, the Commission resolved to recommend approval of Case 08SN0121, subject to the following condition:

CONDITION

The Textual Statement dated September 24, 2007, shall be considered the Master Plan. (P)

AYES: Messrs. Gecker, Gulley, Wilson and Litton.  
NAYS: Mr. Bass.

On motion of Mr. Wilson, seconded by Mr. Gulley, the Commission acknowledged the request included only a portion of Tax ID 804-637-4161.

AYES: Messrs. Gecker, Gulley, Wilson, Litton and Bass.

**08SN0124:** In Dale Magisterial District, **RICHMOND KICKERS YOUTH SOCCER CLUB, INC.** requested amendment to Conditional Use Planned Development (Case 87SN0133) to permit indoor/outdoor recreation uses and related requirements relative to, but not limited to, open space, height and setbacks and amendment of zoning district map. The density of such amendment will be controlled by zoning conditions or Ordinance standards. The Comprehensive Plan suggests the property is appropriate for regional mixed use uses. This request lies in a Corporate Office (O-2) District on 52.6 acres lying on the north line of Ridgedale Parkway; also fronting approximately 2,870 feet on the southwest line of Chippenham Parkway west of Iron Bridge Road. Tax IDs 774-689-Part of 6684; 775-689-1840, 2972 and 8931; and 776-688-0199 and 5379.

Mr. Clay presented an overview of the request and staff's recommendation for approval, subject to the applicant addressing concerns relative to the computer-controlled, variable message, electronic sign conforming to the adopted Electronic Message Center Policy for such signs relative to location and display color limitations.

Mr. Jeff Geiger, the applicant's representative, explained the purpose of the sign was to advertise events and participants in events at the complex, provide directional information and promote activities. He stated the applicant was requesting deviation from the display color limitation to allow "red" as an additional color on the sign to display team colors

Mr. Gecker opened the discussion for public comment.

Mr. William Shewmake, a County resident and member of the Chesterfield Parks and Recreation Advisory Commission, supported the request, noting sports fields were needed in the County and stated revenues generated by the sport would not only be beneficial to, but also provide great opportunities for, the County.

There being no one else to speak, Mr. Gecker closed the public comment.

In response to questions from Mr. Litton, the applicant indicated the location of the sign would be along Ridgedale Parkway and not visible to Route 10.

Mr. Gulley indicated he could not support the sign since it violated the Policy.

On motion of Mr. Litton, seconded by Mr. Wilson, the Commission resolved to recommend approval of Case 08SN0124 and acceptance of the following proffered conditions:

### PROFFERED CONDITIONS

The property owners and applicant in this rezoning case, pursuant to Section 15.2-2298 of the Code of Virginia (1950 as amended) and the Zoning Ordinance of Chesterfield County, for themselves and their successors or assigns, proffer that the development of the property under consideration will be developed according to the following proffer if, and only if, the rezoning request submitted herewith is granted with only those conditions agreed to by the owners and applicant. In the event this request is denied or approved with conditions not agreed to by the owners and applicant, the proffers shall immediately be null and void and of no further force or effect.

THE FOLLOWING CONDITIONS, IN ADDITION TO THE CONDITIONS OF CASE NO. 87S133 AS AMENDED HEREIN, SHALL ONLY APPLY TO THE DEVELOPMENT OF OUTDOOR RECREATIONAL FACILITIES INCLUDING, BUT NOT LIMITED TO, A SOCCER COMPLEX, WHICH MAY INCLUDE A STADIUM AND PLAYING FIELDS ENCLOSED BY A BUBBLE-STYLE ENCLOSURE, AN ASSOCIATED MEDICAL CLINIC, AND ACCESSORY AND RELATED USES (THE "FACILITIES") AS PERMITTED AND REGULATED PURSUANT TO THE AMENDED CUPD REQUESTED HEREWITH. TO THE EXTENT SUCH FACILITIES ARE NOT DEVELOPED, THE CONDITIONS OF CASE NO. 87S133 SHALL CONTINUE TO APPLY.

1. Master Plan. The Textual Statement revised November 15, 1988 and as further revised on October 12, 2007, shall be considered the Master Plan. (Note: this condition supersedes Board Imposed Condition 1 of Case No. 87S133.) (P)
2. Setback Along Chippenham Parkway. Within this required forty (40) foot setback along Chippenham Parkway, existing high story trees shall be preserved in addition to required landscaping of the Corridor Overlay District standards. A conceptual landscaping plan depicting this requirement shall be submitted to the Planning Commission for approval in conjunction with the first schematic plan review. Within sixty (60) days of rough clearing and grading for any site adjacent to the setback, a detailed landscaping plan shall be submitted to the Planning Department for approval. (Note: this condition supersedes Board Imposed Condition 17 of Case No. 87S133.) (P)



3. Deletion of Conditions. Board Imposed Conditions 9 and 20 of Case No. 87S133 are hereby deleted. (P)
4. Right of Way Dedications. Proffered Condition 2 of Case No. 87S133 is hereby deleted. (T)
5. Stub Road. Proffered Condition 7 of Case No. 87S133 is hereby deleted. (T)
6. Electronic Changeable Copy Signs. Except for scoreboards, any computer-controlled variable message electronic signs, which are visible from off the Property, shall be subject to the following standards:
  - a. copy shall be limited to a maximum of two (2) lines which shall not move, but may fade;
  - b. the message or display shall be programmed or sequenced to change no more than once every ten (10) seconds;
  - c. the copy display color shall either be red, white, or yellow;
  - d. flashing and traveling messages shall be prohibited; and
  - e. bijou lighting and animation effects shall be prohibited. (P)

AYES: Messrs. Gecker, Wilson, Litton and Bass.  
ABSTENTION: Mr. Gulley.

**08SN0125:** In Dale Magisterial District, **DOST LLC** requested amendment of Conditional Use Planned Development (Case 02SN0213) and amendment of zoning district map to permit recreational establishments and schools. The density of such amendment will be controlled by zoning conditions or Ordinance standards. The Comprehensive Plan suggests the property is appropriate for general industrial use. This request lies in a General Industrial (I-2) District on 7.8 acres located in the northwest quadrant of the intersection of Landfill Drive and Iron Bridge Road. Tax ID 773-657-5505.

Mr. Clay presented an overview of the request and staff's recommendation for denial, noting the proposed uses did not conform to the *Central Area Plan* and were not representative of, nor compatible with, existing and anticipated area development.

Ms. Carrie Coyner, the applicant's representative, did not accept staff's recommendation, citing other existing similar commercial uses located in the area, stated the proposed use was the best use for the property and asked the Commission to consider a favorable recommendation.

No one came forward to speak in favor of, or in opposition to, the request.

On motion of Mr. Litton, seconded by Mr. Wilson, the Commission resolved to recommend approval of Case 08SN0125 and acceptance of the following proffered conditions:

#### PROFFERED CONDITIONS

The Owner-Applicant in this zoning case, pursuant to Section 15.2-2298 of the Code of Virginia (1950 as amended) and the Zoning Ordinance of Chesterfield County, for itself and its successors or assigns, proffers that the development of the property known as Chesterfield County Tax ID 773-657-5505 will be

developed as set forth in Case No. 02SN0213 and as set forth below; however, in the event the request is denied or approved with conditions not agreed to by the Applicant, these proffers and conditions shall be immediately null and void and of no further force or effect.

1. The attached plan labeled Exhibit "A" shall be considered the Master Plan. (P)
2. In addition to the currently permitted uses, the following uses shall be permitted:
  - (a) Recreational establishments, commercial – indoor and outdoor; however any outdoor recreational establishment shall only be permitted when enclosed by a fence and as shown on the attached Master Plan in the area outlined in bold and designated as "Outdoor Recreation".
  - (b) Schools – commercial, trade, music, dance, business, vocational and training. (P)
3. Any indoor recreational use and school use shall be located in the building designated as "Main Office Building" as shown on the attached Master Plan. (P)

(STAFF NOTE: The proffered conditions stated herein, apply only to recreational and school uses. All other conditions of Case 02SN0213 remain applicable.)

AYES: Messrs. Gecker, Gulley, Wilson, Litton and Bass.

**07SN0356:** In Midlothian Magisterial District, **GOODE LAND COMPANY** requested rezoning and amendment of zoning district map from Residential (R-7) and Community Business (C-3) to Community Business (C-3) plus Conditional Use Planned Development to permit exceptions to Ordinance requirements. The density of such amendment will be controlled by zoning conditions or Ordinance standards. The Comprehensive Plan suggests the property is appropriate for village shopping district use uses. This request lies on 2.7 acres and is known as 13217 Midlothian Turnpike. Tax ID 731-707-2423.

Ms. Peterson presented an overview of the request and staff's recommendation for approval of the rezoning, subject to the applicant addressing concerns relative to architectural treatment and drive-in windows. She stated staff recommended denial of the Conditional Use Planned Development as the setback exceptions along Midlothian Turnpike would interrupt the established development pattern and visual transition from the typical suburban automobile-oriented development of the Village Fringe to Core of Midlothian, undermining the integrity of the *Midlothian Area Community Plan* in promoting a pedestrian scale and focus for the Village Core

Mr. Jim Theobald, the applicant's representative, accepted the recommendation for approval of the rezoning but did not accept the recommendation for denial of the Conditional Use Planned Development, noting the applicant intended to develop a neighborhood retail center consistent with existing area development. He stated the applicant had worked diligently with the Village of Midlothian Volunteer Coalition to develop proffers to address/resolve their concerns and asked the Commission forward a favorable recommendation to the Board of Supervisors.

Mr. Gecker opened the discussion for public comment.

Ms. Susan Bernardo, a member of the Village of Midlothian Volunteer Coalition Development Committee, voiced support for the request, indicating the development would enhance the Village.

Ms. Amy Satterfield, Executive Director of the Village of Midlothian Volunteer Coalition, did not agree with staff's recommendation for denial of the Conditional Use Planned Development, noting the applicant had addressed/resolved concerns of the community. She voiced support for the request noting the use would enhance the Village and she felt approval was appropriate.

There being no one else to speak, Mr. Gecker closed the public comment.

On motion of Mr. Gecker, seconded by Mr. Gulley, the Commission resolved to recommend approval of Case 07SN0356 and acceptance of the following proffered conditions:

#### PROFFERED CONDITIONS

The property owner and applicant in this rezoning case, pursuant to Section 15.2-2298 of the Code of Virginia (1950 as amended) and the Zoning Ordinance of Chesterfield County, for themselves and their successors or assigns, proffer that the property under consideration will be developed according to the following proffers if, and only if, the rezoning request submitted herewith is granted with only those conditions agreed to by the owner and applicant. In the event this request is denied or approved with conditions not agreed to by the owner and applicant, the proffers shall immediately be null and void and of no further force or effect.

1. Master Plan. The Textual Statement dated July 30, 2007 shall be considered the Master Plan. (P)
2. Architecture. The architectural treatment of buildings constructed on the Property shall be generally consistent with Colonial Revival Architecture, unless otherwise requested by the developer and specifically approved by the Planning Commission at time of site plan approval. (P)
3. Fence. A decorative metal fence shall be constructed along Midlothian Turnpike exclusive of the entranceway. The fence shall have brick piers with concrete caps. (P)
4. Sidewalk.
  - a. In conjunction with the initial development of the Property, the developer shall construct a sidewalk to VDOT standards along Midlothian Turnpike (Route 60) for the entire property frontage, and dedicate to Chesterfield County, free and unrestricted, any additional right-of-way (or easements) required for this improvement. The exact design and location of this improvement shall be approved by the Transportation Department. There shall be a minimum five (5) foot wide grassy strip from the back of curb to the sidewalk.
  - b. A sidewalk shall be constructed to the northern limits of Tax ID 731-706-3947 to facilitate pedestrian connection between the proposed developments. (P)

5. Access. Direct vehicular access from the Property to Midlothian Turnpike (Route 60) shall be limited to one (1) entrance/exit, generally located towards the eastern property line. The exact location of this access shall be approved by the Transportation Department. Prior to any site plan approval, an access easement, acceptable to the Transportation Department, shall be recorded across the Property to provide shared use of this access with adjacent property to the east, west and south. (T)
6. Notification. The developer shall be responsible for notifying by registered, certified or first class mail, the last known representative on file with the Planning Department of the Village of Midlothian Volunteer Coalition of any site plan. Such notification shall occur as soon as practical, but in no event less than twenty-one (21) days prior to approval or disapproval of the plan. The developer shall provide a copy of the notification letter(s) to the Planning Department. (P)
7. Street Lights. The developer shall be responsible for installation of decorative street lighting similar in design to the light fixture specified in The Midlothian Village Technical Manual which shall be provided along all public roads adjacent to the site. Spacing shall be approximately eighty (80) feet on center. All on-site freestanding street light fixtures shall be compatible with the aforementioned street lights. (P)
8. Utilities. The public wastewater system shall be utilized. (U)
9. Timbering. Except for the timbering approved by the Virginia State Department of Forestry for the purpose of removing dead or diseased trees, there shall be no timbering on the Property until a land disturbance permit has been obtained from the Environmental Engineering Department and the approved devices have been installed. (EE)
10. Uses.
  - a. Uses shall not be open to the public between the hours of midnight and 6:00 a.m.
  - b. Uses shall be limited to those uses permitted by right or with restrictions in the Neighborhood Business (C-2) District plus the following uses:
    - i. cocktail lounges provided that they are accessory to a restaurant;
    - ii. liquor stores;
    - iii. restaurants, to include carry out and fast food;
    - iv. electrical, plumbing HVAC sales and display rooms; and
    - v. microbreweries provided that the manufacturing of alcoholic beverages shall be for the sole purpose of on-site consumption and such on-site consumption shall only occur if accessory to a restaurant use.
  - c. The following uses shall be prohibited:
    - vi. gasoline sales;
    - vii. coin-operated dry cleaning, laundry or laundromats;
    - viii. rental of health and party equipment; and small home hardware, tools and equipment;

- ix. cigarette outlets;
- x. electrical, plumbing and HVAC service;
- xi. funeral homes or mortuaries; and
- xii. motor vehicle accessory stores. (P)

11. Drive-Through Windows. There shall be no drive-through window on the façade of any building which drive-through would be parallel and adjacent to Midlothian Turnpike. Any drive-through window located on the side of a building, and located in front of the front plane of any building adjacent thereto on adjacent properties, shall be covered by a porte-cochère. Fast food restaurants shall not have drive through windows, excluding, however, restaurants with drive through windows whose primary business (a minimum of fifty (50) percent of its gross receipts) is the sale of specialty coffee beverages, as well as ground and unground coffee beans. (P)
12. Parking. There shall be no parking between Midlothian Turnpike and the façade of any building adjacent to Midlothian Turnpike. (P)
13. Retaining Walls. No individual retaining wall on the south side of the Property shall exceed five (5) feet in height.

AYES: Messrs. Gecker, Gulley, Wilson, Litton and Bass.

**07SN0361:** In Matoaca Magisterial District, **ROBERT C. SOWERS AND DOUGLAS AND SUSAN SOWERS** requested rezoning and amendment of zoning district map from Agricultural (A) to Residential (R-12) plus Conditional Use Planned Development to permit exceptions to Ordinance requirements. The density of such amendment will be controlled by zoning conditions or Ordinance standards. The Comprehensive Plan suggests the property is appropriate for conservation: passive recreation and single family residential use of 2.0 units per acre or less. This request lies on 26.2 acres fronting approximately 1,030 feet on the west line of Otterdale Road approximately 3,380 feet north of Genito Road. Tax IDs 713-691-1673 and 8928; and 714-690-1660.

Ms. Orr presented an overview of the request and staff's recommendation for approval, subject to the applicant addressing the goals of the *Upper Swift Creek Plan* regarding water quality. She referenced an Addendum, stating the Transportation Department had further evaluated the request based upon information provided by the applicant and noting the proffered condition addressed the transportation impact consistent with the Board of Supervisors' Policy.

Ms. Carrie Coyner, the applicant's representative, did not accept the recommendation; noted transportation issues had been addressed; and indicated the proffered condition suggested by staff regarding water quality was not, in their opinion, consistent with the Board's recommendation.

Mr. Gecker opened the discussion for public comment.

Ms. Kitty Snow, a resident of Moseley, opposed the request, citing concerns that the cumulative impact of various development proposals on capital facilities should be considered; that the deferred growth and level of services recommendations by the Planning Commission should have been adopted as part of the *Upper Swift Creek Plan*; and that area roads and schools were inadequate to accommodate further development.

There being no one else to speak, Mr. Gecker closed the public comment.

In rebuttal, Ms. Coyner stated the geography of the request was not located in the recommended "Deferred Growth Area;" that the proposal was in compliance with both the past and previously adopted *Upper Swift Creek Plan*; and that transportation issues had been satisfactorily addressed.

Mr. McElfish addressed concerns and answered questions relating to the recommendation of the *Upper Swift Creek Plan* regarding protection of the Reservoir's water quality.

Mr. McCracken addressed concerns and answered questions relative to transportation issues, particularly with respect to Otterdale Road.

Mr. Bass indicated that roads were unsafe and he, therefore, could not support the rezoning.

Messrs. Gecker and Gulley further indicated that approval would adversely affect the health, safety and welfare of citizens.

Mr. Wilson indicated the proposal conformed to the *Plan* provided the water quality recommendations were addressed.

On motion of Mr. Bass, seconded by Mr. Gulley, the Commission resolved to recommend denial of Case 07SN0361.

AYES: Messrs. Gecker, Gulley and Bass.

NAYS: Messrs. Wilson and Litton.

**07SN0375:** In Bermuda Magisterial District, **IRONBRIDGE CORNER, L.C.** requested rezoning and amendment of zoning district map from Neighborhood Business (C-2) to Community Business (C-3) with Conditional Use to permit multifamily residential uses plus Conditional Use Planned Development to permit light industrial uses and exceptions to Ordinance requirements. The density of such amendment will be controlled by zoning conditions or Ordinance standards. The Comprehensive Plan suggests the property is appropriate for community mixed use uses. This request lies on 23.0 acres located in the northeast quadrant of the intersection of Ironbridge Parkway and Iron Bridge Road. Tax ID 774-656-6361.

Ms. Orr presented an overview of the request and staff's recommendation for approval, subject to the applicant addressing concerns relative to the impacts of the proposed development on capital facilities; transportation concerns; and security concerns. She referenced an Addendum, noting that to address concerns relative to schematic plans, mixing of uses and reference to the Master Plan, on October 12<sup>th</sup> the applicant submitted an amendment to Proffered Condition 1 to correct the reference to the Master Plan and a revision to Textual Statement Item I.A. relative to requiring plan approvals for adjusting tract boundaries and mixing of uses within a tract, which amendment she noted addressed staff's concerns regarding schematic plans.

Ms. Carrie Coyner, the applicant's representative, did not accept staff's recommendation and asked that a recommendation for approval, as presented, be forwarded to the Board of Supervisors' for consideration. She presented a history of the request; stated the proposed zoning and land uses conformed to the *Central*

*Area Plan*; cited similar area developments (community-scale commercial use including shopping centers, other commercial and office uses and integrated townhouse or multi-family residential uses) consistent with the applicant's proposal; outlined proposed amenities and enhancements that would be provided by the development; and stated the applicant was not requesting to develop any more on the property than that which he was already allowed.

No one came forward to speak in favor of, or in opposition to, the request.

On motion of Mr. Wilson, seconded by Mr. Litton, the Commission resolved to recommend approval of Case 07SN0375, and acceptance of the following proffered conditions:

### PROFFERED CONDITIONS

The Owner-Applicant in this zoning case, pursuant to Section 15.2-2298 of the Code of Virginia (1950 as amended) and the Zoning Ordinance of Chesterfield County, for itself and its successors or assigns, proffers that the development of the property known as Chesterfield County Tax IDs 774-656-6361 from C-2 with CUPD to C-3 with a Conditional Use to permit RMF and a CUPD to permit bulk exceptions, and subject to the conditions and provisions of the Textual Statement will be developed as set forth below; however, in the event the request is denied or approved with conditions not agreed to by the Applicant, these proffers and conditions shall be immediately null and void and of no further force or effect.

1. Master Plan. The Textual Statement last revised September 24, 2007, and the Plan entitled, "TGM REALTY – SCHEMATIC LAYOUT", prepared by Balzer, dated April 29, 2007, and last revised on September 17, 2007, shall be considered the Master Plan. (P)
2. Timbering. Except for the timbering approved by the Virginia State Department of Forestry for the purpose of removing dead or diseased trees, there shall be no timbering on the Property until a land disturbance permit has been obtained from the Environmental Engineering Department and the approved devices have been installed. (EE)
3. Transportation.
  - A. Prior to any site plan approval, in conjunction with recordation of the initial subdivision plat or within ninety (90) days of a written request by the Transportation Department, whichever occurs first, one hundred (100) feet of right-of-way, measured from the centerline of Route 10 immediately adjacent to the property, shall be dedicated, free and unrestricted, to and for the benefit of Chesterfield County.
  - B. Direct vehicular access from the property to Route 10 shall be limited to two (2) entrances/exits.
  - C. The developer shall be responsible for the following:
    1. Construction of a separate right turn lane along Route 10 at each the approved access,

2. Construction of an adequate left turn lane along the southbound lanes of Route 10 at the existing crossover at Landfill Drive, and
  3. Dedication to Chesterfield County, free and unrestricted, of any additional right-of-way (or easements) required for the improvements identified above.
  4. Construction of a sidewalk to VDOT standards along Route 10 and Ironbridge Parkway for the entire property frontage.
  5. Prior to any site plan or construction plan approval, whichever occurs first, a phasing plan for the required road improvements, as identified in Proffered Condition 32C. above, shall be submitted to the Transportation Department. (T)
4. Utilities. Public water and wastewater systems shall be used. (U)
5. Age Restriction. Except as otherwise prohibited by the Virginia Fair Housing Law, the Federal Fair Housing Act, and such other applicable federal, state or local legal requirements, dwelling units shall be restricted to "housing for older persons", as defined in the Virginia Fair Housing Law and no persons under 19 years of age shall reside therein. (P & B & M)
6. Cash Proffer. The applicant, sub-divider, or assignee(s) shall pay the following to the County of Chesterfield, prior to the issuance of a building permit for all dwelling units in excess of 80, for infrastructure improvements within the service district for the property:
- a. \$10,269 per dwelling unit, if paid prior to July 1, 2007; or
  - b. The amount approved by the Board of Supervisors not to exceed \$10,269 per dwelling unit adjusted upward by any increase in the Marshall and Swift Building Cost Index between July 1, 2006, and July 1 of the fiscal year in which the payment is made if paid after June 30, 2007. At the time of payment, the \$10,269 will be allocated pro-rata among the facility costs as follows: \$602 for parks and recreation, \$348 for library facilities, \$8,915 for roads, and \$404 for fire stations. Payments in excess of \$10,269 shall be prorated as set forth above.
- Cash proffer payments shall be spent for the purposes proffered or as otherwise permitted by law.
- Should Chesterfield County impose impact fees at any time during the life of the development that are applicable to the property, the amount paid in cash proffers shall be in lieu of or credited towards, but not in addition to, any impact fees, in a manner as determined by the County. (B & M)
7. A maximum of one hundred (100) dwelling units shall be permitted. (P)

AYES: Messrs. Gecker, Gulley, Wilson, Litton and Bass.



**08SN0129:** In Bermuda Magisterial District, **COLONIAL HEIGHTS BAPTIST CHURCH** requested Conditional Use and amendment of zoning district map to permit a computer-controlled, variable message, electronic sign. The density of such amendment will be controlled by zoning conditions or Ordinance standards. The Comprehensive Plan suggests the property is appropriate for community commercial/mixed use corridor use. This request lies in a Regional Business (C-4) District on 4.4 acres and is known as 17201 Jefferson Davis Highway. Tax ID 799-629-8735.

Ms. Peterson presented an overview of the request and staff's recommendation for denial, noting the proposed computer-controlled, variable message, electronic sign did not conform to the adopted Electronic Message Center Policy relative to display colors and the requested exception to the Policy could set a precedent for similar requests.

Dr. Gary Moore, the applicant's representative, accepted staff's recommendation with the exception of the requirement relative to copy display colors. He indicated the applicant wished to display copy colors to allow photographic-quality images and messages; requested that the sign message be allowed additional lines of copy and color display; and asked that the Commission give favorable consideration to the request.

Mr. Gecker opened the discussion for public comment.

Mr. George Emerson, a County resident and developer, voiced support for the request, stating he felt the signage would be aesthetically pleasing and an excellent mechanism to convey messages.

There being no one else to speak, Mr. Gecker closed the public comment.

In response to Messrs. Gulley's and Bass' concerns that the proposal failed to comply with the Policy, the applicant agreed to modify the proffer to limit the lines of copy to three (3).

Mr. Wilson suggested that it may be appropriate to re-evaluate the Policy.

Messrs. Gulley and Bass stated they could not support the sign since it violated the Policy.

On motion of Mr. Wilson, seconded by Mr. Litton, the Commission resolved to recommend approval of Case 08SN0129 and acceptance of the following proffered condition:

#### PROFFERED CONDITION

In addition to Ordinance requirements, any computer-controlled, variable message, electronic sign shall conform to the following standards:

- a. Copy shall be limited to a maximum of three (3) lines which shall not move, but may fade;
- b. The message or display shall be programmed or sequenced to change no more than once every ten (10) seconds;
- c. The copy display color shall be limited to shades of red, blue and green;
- d. Flashing and traveling messages shall be prohibited; and
- e. Bijou lighting and animation effects shall be prohibited. (P)

AYES: Messrs. Gecker, Wilson and Litton.  
NAYS: Messrs. Gulley and Bass.

The Commission recessed at 9:32 p.m. and reconvened at 9:42 p.m.

**08SN0131:** In Matoaca Magisterial District, **CHESTERFIELD COUNTY BOARD OF SUPERVISORS** requested Conditional Use and amendment of zoning district map to permit a computer-controlled, variable message, electronic sign. The density of such amendment will be controlled by zoning conditions or Ordinance standards. The Comprehensive Plan suggests the property is appropriate for residential use of 1-5 acre lots, suited to R-88 zoning. This request lies in an Agricultural (A) District on 137.2 acres fronting approximately 1,600 feet on the north and south lines of John Winston Jones Parkway approximately 900 feet northeast of Woodpecker Road; also fronting in two (2) places for approximately 280 feet on the northeast line of Woodpecker Road approximately 600 feet southeast of John Winston Jones Parkway. Tax ID 783-626-4767.

Ms. Peterson presented an overview of the request and staff's recommendation for approval.

Mr. Steve Cunningham, the school's representative, did not accept staff's recommendation and requested that the sign message be allowed to change more often and that additional lines of copy be permitted.

Mr. Gecker opened the discussion for public comment.

Ms. Amy Elliott, representing the Matoaca High School Parent Teacher Student Association, supported the request and asked the Commission to recommend approval to allow the sign message to change more often and that additional lines of copy be permitted.

Mr. Ralph Clay, an adjacent property owner, opposed the request, citing concerns that the sign would distract motorists creating safety problems and would be intrusive to area residents.

There being no one else to speak, Mr. Gecker closed the public comment.

Mr. Bass indicated a community meeting had not been held to discuss the proposal; noted he had received telephone calls from several area residents concerning the distraction that would be generated by the sign if located along a heavily traveled road; and stated he felt the request should be deferred to allow a community meeting to be held to address residents' concerns.

On motion of Mr. Bass, seconded by Mr. Gulley, the Commission resolved to defer Case 08SN0131 to the December 18, 2007, Planning Commission public hearing.

AYES: Messrs. Gecker, Gulley, Wilson, Litton and Bass.

**07SN0206:** (Amended) In Matoaca Magisterial District, **GBS HOLDING LTD** requested rezoning and amendment of zoning district map from Agricultural (A) to Residential (R-15) plus Conditional Use Planned Development to permit exceptions to Ordinance requirements. Residential use of up to 2.90 units per acre is permitted in a Residential (R-15) District. The density of such amendment will be controlled by zoning conditions or Ordinance standards. The Comprehensive Plan suggests the property is appropriate for

single family residential use of 2.0 units per acre or less. This request lies on 38.8 acres fronting approximately 290 feet on the west line of Old Hundred Road approximately 2,900 feet northwest of Otterdale Road. Tax ID 714-698-Part of 3178.

Ms. Peterson presented an overview of the request and staff's recommendation for denial, noting the application failed to address compatibility between the proposed cluster lots and the adjacent Residential (R-15) development through which the smaller cluster lots would have sole access and also failed to address transportation concerns relative to access on Old Hundred Road.

Mr. Casey Sowers, the applicant's representative, did not accept staff's recommendation, noting the submittal of an additional proffered condition addressing low impact development stormwater management techniques relative to the calculations of post-development phosphorous loads.

Mr. Gecker opened the discussion for public comment.

Mr. Hugh Woodle, the property owner and Ms. Virginia Justis, a life-long County resident, voiced support for the request, noting satisfaction with the development planned by the applicant.

There being no one else to speak, Mr. Gecker closed the public comment.

On motion of Mr. Bass, seconded by Mr. Gulley, the Commission resolved to recommend approval of Case 07SN0206 and acceptance of the following proffered conditions:

#### PROFFERED CONDITIONS

The Owners and the Developer (the "Developer") in this zoning case, pursuant to Section 15.2-2298 of the Code of Virginia (1950 as amended) and the Zoning Ordinance of Chesterfield County, for themselves and their successors or assigns, proffer that the development of the Property known as Chesterfield County Tax Identification Number part of 714-698-3178 (the "Property") under consideration will be developed according to the following conditions if, and only if, the rezoning request for R-15 and the conditional use plan of development is granted. In the event the request is denied or approved with conditions not agreed to by the Developer, the proffers and conditions shall immediately be null and void and of no further force or effect. If the zoning is granted, these proffers and conditions will supersede all proffers and conditions now existing on the Property.

1. Master Plan. The Textual Statement, dated July 25, 2007, and Exhibit A, dated March 1, 2007, and revised July 25, 2007 shall be considered the Master Plan. (P)
2. Density. The maximum number of dwelling units developed on the Property shall be forty-five (45). Of this total, a minimum of seventeen (17) lots shall be of Lot Type B and a maximum of twenty six (26) shall be of Lot Type A, as further defined in the Textual Statement. (P)
3. Timbering. With the exception of timbering, which has been approved by the Virginia State Department of Forestry, there shall be no timbering until a land disturbance permit has been obtained from the Environmental Engineering Department and the approved devices have been installed. (EE)

4. Utilities. The public water and wastewater systems shall be used, except for model homes/sales offices not in permanent dwellings and/or construction offices. (U)
5. Cash Proffers. The Developer, subdivider, or assignee(s) shall pay the following to the County of Chesterfield prior to the issuance of a building permit for infrastructure improvements within the service district for the Property:
  - A. \$15,600.00 per dwelling unit if paid prior to July 1, 2007. At the time of payment, the \$15,600 will be allocated pro-rata among the facility costs as follows: \$5,331 for schools, \$602 for parks and recreation, \$348 for library facilities, \$8,915 for roads, and \$404 for fire stations. Thereafter, such payment shall be the amount approved by the Board of Supervisors not to exceed \$15,600.00 per unit as adjusted upward by any increase in the Marshall and Swift Building Cost Index between July 1, 2006 and July 1 of the fiscal year in which the payment is made if paid after June 30, 2007.
  - B. If, upon the mutual agreement of the Transportation Department and the Developer, the Developer provides road improvements (the "Improvements") in the vicinity of Old Hundred Road, then the transportation component in this Proffered Condition shall be reduced by an amount not to exceed the cost to construct the Improvements so long as the cost is of equal or greater value than that which would have been collected through the payment(s) of the road component of the cash proffer as determined by the Transportation Department. Once the sum total amount of the cash proffer credit exceeds the cost of the Improvements, as determined by the Transportation Department, thereafter the Developer shall commence paying the cash proffer as set forth in this Proffered Condition as adjusted for the credit. For the purposes of this proffer, the costs, as approved by the Transportation Department, shall include, but not be limited to, the cost of right-of-way acquisition, engineering costs, costs of relocating utilities and actual costs of construction (including labor, materials, and overhead) ("Work"). Before any Work is performed, the Developer shall receive prior written approval by the Transportation Department for the Improvements and any credit amount.
  - C. Cash proffer payments shall be spent for the purposes proffered or as otherwise permitted by law. Should Chesterfield County impose impact fees at any time during the life of the development that are applicable to the Property, the amount paid in cash proffers shall be in lieu of or credited toward, but not in addition to, any impact fees, in a manner as determined by the county. (B&M)
6. Access. Direct vehicular access from the Property to Old Hundred Road shall be limited to one (1) public road. The exact location of this access shall be approved by the Transportation Department.
  - A. In conjunction with any development that includes direct vehicular access from the property to Old Hundred Road; additional pavement shall be constructed along Old Hundred Road at the public road intersection to provide left and right turn

lanes. The Developer shall dedicate to Chesterfield County, free and unrestricted, any additional right-of-way (or easements) required for these improvements. (T)

7. Dedication. In conjunction with recordation of the initial subdivision plat or within sixty (60) days from the date of a written request by the Transportation Department, whichever occurs first, forty-five (45) feet of right-of-way on the west side of Old Hundred Road, measured from the centerline of that part of Old Hundred Road immediately adjacent to the Property, shall be dedicated, free and unrestricted, to and for the benefit of Chesterfield County. (T)
8. Buffers. All required buffers shall be located within recorded open space. (P)
9. Stormwater Management. Low impact development ("LID") stormwater management techniques, recognized by Environmental Engineering, shall be used and included in the calculations of the post-development phosphorous loads. The Developer shall implement the more restrictive requirement of 0.16 lbs/ac/yr of phosphorus for residential development, if notified by the Director of Environmental Engineering that the water quality of the Swift Creek Reservoir has reached a median level that exceeds 0.04 mg/l in-lake phosphorus for two (2) consecutive years ("Increased Median"). All construction plans in the Department of Environmental Engineering that have complied with the submittal criteria for review shall not be subject to the Increased Median.

There was discussion relative to the ramifications of accepting Proffered Condition 9, as submitted, and the Commission chose not to accept the portion of the proffer which would implement a phosphorous standard of 0.16 lbs/ac/yr if the quality of the Swift Creek Reservoir exceeded a .04 mg/l in-lake phosphorus for two consecutive years. The Commission members felt that future amendments to the County Ordinance establishing an acceptable phosphorous runoff standard would be more effective than the proffer as written

Upon conclusion of the discussion and in response to questions from Mr. Bass, Mr. Sowers stated he was agreeable to amending Proffered Condition 9 to reflect that "low impact development ("LID") stormwater management techniques, recognized by Environmental Engineering, shall be used and included in the calculations of the post-development phosphorous loads."

Mr. Bass amended his motion, and Mr. Gulley amended his second, to recommend approval of Case 07SN0223 and acceptance of the following proffered conditions:

#### PROFFERED CONDITIONS

The Owners and the Developer (the "Developer") in this zoning case, pursuant to Section 15.2-2298 of the Code of Virginia (1950 as amended) and the Zoning Ordinance of Chesterfield County, for themselves and their successors or assigns, proffer that the development of the Property known as Chesterfield County Tax Identification Number part of 714-698-3178 (the "Property") under consideration will be developed according to the following conditions if, and only if, the rezoning request for R-15 and the conditional use plan of development is granted. In the event the request is denied or approved with conditions not agreed to by the Developer, the proffers and conditions shall immediately be null and void and of no further force or effect. If the zoning is granted, these proffers and conditions will supersede all proffers and conditions now existing on the Property.

1. Master Plan. The Textual Statement, dated July 25, 2007, and Exhibit A, dated March 1, 2007, and revised July 25, 2007 shall be considered the Master Plan. (P)
2. Density. The maximum number of dwelling units developed on the Property shall be forty-five (45). Of this total, a minimum of seventeen (17) lots shall be of Lot Type B and a maximum of twenty six (26) shall be of Lot Type A, as further defined in the Textual Statement. (P)
3. Timbering. With the exception of timbering, which has been approved by the Virginia State Department of Forestry, there shall be no timbering until a land disturbance permit has been obtained from the Environmental Engineering Department and the approved devices have been installed. (EE)
4. Utilities. The public water and wastewater systems shall be used, except for model homes/sales offices not in permanent dwellings and/or construction offices. (U)
5. Cash Proffers. The Developer, subdivider, or assignee(s) shall pay the following to the County of Chesterfield prior to the issuance of a building permit for infrastructure improvements within the service district for the Property:
  - A. \$15,600.00 per dwelling unit if paid prior to July 1, 2007. At the time of payment, the \$15,600 will be allocated pro-rata among the facility costs as follows: \$5,331 for schools, \$602 for parks and recreation, \$348 for library facilities, \$8,915 for roads, and \$404 for fire stations. Thereafter, such payment shall be the amount approved by the Board of Supervisors not to exceed \$15,600.00 per unit as adjusted upward by any increase in the Marshall and Swift Building Cost Index between July 1, 2006 and July 1 of the fiscal year in which the payment is made if paid after June 30, 2007.
  - B. If, upon the mutual agreement of the Transportation Department and the Developer, the Developer provides road improvements (the "Improvements") in the vicinity of Old Hundred Road, then the transportation component in this Proffered Condition shall be reduced by an amount not to exceed the cost to construct the Improvements so long as the cost is of equal or greater value than that which would have been collected through the payment(s) of the road component of the cash proffer as determined by the Transportation Department. Once the sum total amount of the cash proffer credit exceeds the cost of the Improvements, as determined by the Transportation Department, thereafter the Developer shall commence paying the cash proffer as set forth in this Proffered Condition as adjusted for the credit. For the purposes of this proffer, the costs, as approved by the Transportation Department, shall include, but not be limited to, the cost of right-of-way acquisition, engineering costs, costs of relocating utilities and actual costs of construction (including labor, materials, and overhead) ("Work"). Before any Work is performed, the Developer shall receive prior written approval by the Transportation Department for the Improvements and any credit amount.

- C. Cash proffer payments shall be spent for the purposes proffered or as otherwise permitted by law. Should Chesterfield County impose impact fees at any time during the life of the development that are applicable to the Property, the amount paid in cash proffers shall be in lieu of or credited toward, but not in addition to, any impact fees, in a manner as determined by the county. (B&M)
- 6. Access. Direct vehicular access from the Property to Old Hundred Road shall be limited to one (1) public road. The exact location of this access shall be approved by the Transportation Department.
  - A. In conjunction with any development that includes direct vehicular access from the property to Old Hundred Road; additional pavement shall be constructed along Old Hundred Road at the public road intersection to provide left and right turn lanes. The Developer shall dedicate to Chesterfield County, free and unrestricted, any additional right-of-way (or easements) required for these improvements. (T)
- 7. Dedication. In conjunction with recordation of the initial subdivision plat or within sixty (60) days from the date of a written request by the Transportation Department, whichever occurs first, forty-five (45) feet of right-of-way on the west side of Old Hundred Road, measured from the centerline of that part of Old Hundred Road immediately adjacent to the Property, shall be dedicated, free and unrestricted, to and for the benefit of Chesterfield County. (T)
- 8. Buffers. All required buffers shall be located within recorded open space. (P)
- 9. Stormwater Management. Low impact development ("LID") stormwater management techniques, recognized by Environmental Engineering, shall be used and included in the calculations of the post-development phosphorous loads. (EE)

AYES: Messrs. Gecker, Gulley, Wilson, Litton and Bass.

**07SN0223:** (Amended) In Matoaca and Midlothian Magisterial Districts, **GBS HOLDING, LTD.** requested rezoning and amendment of zoning district map from Agricultural (A) and Light Industrial (I-1) to Community Business (C-3) of 211 acres with Conditional Use to permit multifamily and townhouse uses and rezoning from Agricultural (A) and Light Industrial (I-1) to Residential Townhouse (R-TH) of 1,183.9 acres plus Conditional Use Planned Development to permit exceptions to Ordinance requirements on the entire 1,394.9 acre tract. The density of such amendment will be controlled by zoning conditions or Ordinance standards. The Comprehensive Plan suggests the property is appropriate for regional employment center use, office/residential mixed use and residential use of 2.0 units per acre or less. This request lies on 1,394.9 acres fronting the east and west lines of Old Hundred Road at the Norfolk Southern Railroad; the north line of Old Hundred Road east of Otterdale Road; and the east and west lines of Otterdale Road north of Old Hundred Road. Tax IDs 707-700-7988; 708-702-1722; 709-701-7328; 710-700-7596; 710-703-3345; 711-699-3470; 711-700-1144; 711-701-5180; 712-699-7663; 713-703-4194; 713-704-3412; 713-705-5709; 714-703-2188 & 7259; 714-704-1729; 714-705-5728; 716-701-4130; 718-697-4548 & 6844; 718-699-7719; 719-697-8012; 719-698-2822; 720-695-3288 & 9506; 720-698-0178; 720-700-0007; 721-695-9061; 722-697-0512; 722-700-4002.

Ms. Peterson presented an overview of the request and staff's recommendation for denial, noting the application failed to adequately address planning, transportation, utilities, environmental engineering issues and fiscal impacts and capital facilities issues relative to libraries, schools, parks and fire services. She stated given additional time to resolve the issues, the case could provide a unique opportunity for a planned mixed-use community that is based upon traditional development design; however, without resolution of these issues, staff continued to recommend denial of the request.

Mr. Dave Anderson, the applicant's representative, did not accept staff's recommendation; presented an overview of the proposal; addressed staff's concerns regarding the proffered conditions; and outlined various elements/amenities of the proposed development, citing benefits to the community and County.

Mr. Gecker opened the discussion for public comment.

Ms. Becky Karakasians; Mr. Steve McLean; Mr. Steve Marshall; Mr. Greg Fournet; Mr. Mike Bell; Ms. Agnes Mathews; Mr. John Jensen; Mr. Steve Lucas; Mr. Greg Rupp; Mr. Mark Leiper; Mr. Robert Furman; Dr. Tracey Evans; Ms. Christie Lucas; Mr. Peter Notarianni; Mr. Joseph Tantello; Mr. James Davis; and Mr. Bryan Sutton voiced opposition to the request, expressing concerns specific to the North Park and Old Town Tracts relative to their impact on the adjacent residential development to the east (Charter Colony). Specifically issues raised included proposed uses, building height, transition, safety, lighting, noise, traffic and lack of community awareness of the proposal.

Ms. Andrea Epps; Mr. William Shewmake; Ms. Amy Satterfield; Ms. Virginia Justis; Mr. Ken McNulty; and Mr. Andy Scherzer, voiced support for the request, noting the project represented good traditional neighborhood design and complimented existing and future area development within the Route 60/288 Corridor.

There being no one else to speak, Mr. Gecker closed the public comment.

In rebuttal, Mr. Anderson addressed the issues raised, noting the development would be of high quality and an asset to the community and the County.

Mr. Bass indicated that he was satisfied the applicant had properly notified area property owners through numerous community meetings and open houses.

Messrs. Gecker, Gulley and Bass indicated that the proposal represented a quality development and a unique opportunity for the County; the late submittal of changes to the case did not permit time for adequate review and recommendations; the Commission no longer had time to defer the case on their own motion; and the applicant was unwilling to defer the case.

In response to questions from Mr. Bass, Mr. Anderson stated he was not agreeable to deferring the request.

Mr. Gecker expressed concern relative to the applicant not adequately addressing impacts on capital facilities and the lack of adequate water storage indicated growth beyond the ability of the County's infrastructure to accommodate the growth.

Mr. Gulley noted that details relative to development adjacent to Charter Colony still needed to be resolved.



On a motion of Mr. Bass, seconded by Mr. Gulley, the Commission recommended denial of Case 07SN0223.

AYES: Messrs. Gecker, Gulley and Bass.  
NAYS: Mr. Litton.  
ABSTENTION: Mr. Wilson.

At approximately 11:55 p. m., in accordance with the Commission's By-Laws, it was on motion of Mr. Wilson, seconded by Mr. Gulley, that the Commission suspend their By-Laws to allow consideration of the remaining cases on the agenda.

AYES: Messrs. Gecker, Gulley, Wilson, Litton and Bass.

The Commission recessed at 12:02 a.m. and reconvened at 12:07 a.m.

Mr. Turner recalled Case 08SN0111, Twin Rivers LLC.

**08SN0111:** In Bermuda Magisterial District, **TWIN RIVERS LLC** requested rezoning and amendment of zoning district map from General Industrial (I-2) to General Business (C-5) with Conditional Use to permit multifamily and townhouse uses plus Conditional Use Planned Development to permit exceptions to Ordinance requirements. The density of such amendment will be controlled by zoning conditions or Ordinance standards. The Comprehensive Plan suggests the property is appropriate for light industrial use. This request lies on 69.9 acres located in the southwest quadrant of Meadowville and North Enon Church Roads. Tax IDs 823-659-3856, 6573 and 9483; 823-660-4049; and 824-659-2386, 5689 and 8890.

Ms. Rogers presented an overview of the request and revisions submitted at 11:15 p.m., noting that although staff had been able to review the modifications in a cursory manner, issues relative to transportation and cash proffers still remained and suggested a deferral to allow time to evaluate the latest submissions would be appropriate.

Ms. Carrie Coyner, the applicant's representative, did not accept staff's recommendation; briefly summarized the proposal; and agreed to amend the cash proffer to address the full impact of any dwelling unit containing more than two (2) bedrooms; and asked the Commission to forward a favorable recommendation to the Board of Supervisors for consideration.

Mr. Gecker opened the discussion for public comment.

Ms. Faith McClintic, the development manager for the Meadowville Technical Park and representing the Economic Development Authority of Chesterfield County, urged the Commission to forward a favorable recommendation to the Board of Supervisors, noting the applicant had addressed all issues/concerns and the proposed development was not only an integral part of the Park but also would be a compliment to, and benefit for, the area and the County.

Mr. George Emerson, the applicant, asked the Commission to forward the request to the Board of Supervisors with a favorable recommendation.

There being no one else to speak, Mr. Gecker closed the public comment.

Mr. Gecker expressed concern relative to the late submission of the revisions and the inability of staff and the Commission to evaluate those amendments.

Mr. Wilson suggested that staff and the applicant would have an opportunity to correct technical issues prior the Board's consideration of the case and indicated he felt that it was important to move this case forward so as to coordinate the development with other area development in a timely manner.

Mr. Wilson made a motion to recommend approval of the request and acceptance of the proffered conditions with the modification to the cash proffer.

His motion was seconded by Mr. Litton.

The vote on the motion was as follows:

AYES:	Messrs. Wilson and Litton.
NAYS:	Messrs. Gulley and Bass.
ABSTENTION:	Mr. Gecker.

Due to a lack of a majority vote, Case 08SN0111 was carried over to the November 20, 2007, Planning Commission public hearing.

**VIII. CITIZEN COMMENT ON UNSCHEDULED MATTERS INVOLVING THE SERVICES, POLICIES AND AFFAIRS OF THE COUNTY GOVERNMENT REGARDING PLANNING OR LAND USE.**

There were no citizen comments on unscheduled matters involving the services, policies and affairs of the County government regarding planning or land use.

**IX. ADJOURNMENT.**

There being no further business to come before the Commission, it was on motion of Mr. Bass, seconded by Mr. Gulley, that the meeting adjourned at 12:40 a. m. on Wednesday, October 17, 2007, to November 20, 2007, at 12:00 Noon in the Multipurpose Meeting Room of the Chesterfield County Community Development Building, 9800 Government Center Parkway, Chesterfield, VA.

AYES: Messrs. Gecker, Gulley, Wilson, Litton and Bass.

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Chairman/Date

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Secretary/Date